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AMENDED IN ASSEMBLY JUNE 27, 2016

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AMENDED IN ASSEMBLY APRIL 20, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2863**

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**Introduced by Assembly Members Gray and Jones-Sawyer**

February 19, 2016

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An act to add Section 19619.8 to, and to add ~~and repeal~~ Chapter 5.2 (commencing with Section 19990.101) of Division 8 of, the Business and Professions Code, relating to gambling, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2863, as amended, Gray. Gambling: Internet poker.

(1) Existing law, the Gambling Control Act, provides for the licensure of certain individuals and establishments that conduct controlled games, as defined, and for the regulation of these gambling activities by the California Gambling Control Commission. The Department of Justice has related investigatory and enforcement duties under the act. Any violation of these provisions is punishable as a misdemeanor, as specified. Existing law, the Horse Racing Law, generally regulates horse racing and vests the administration and enforcement of its provisions in the California Horse Racing Board.

This bill, which would be known as the Internet Poker Consumer Protection Act of 2016, would establish a framework to authorize intrastate Internet poker, as specified. The bill would authorize eligible

entities to apply for a 7-year license to operate an authorized poker Web site offering the play of authorized Internet poker games to registered players within California, as specified. The bill would require that the license be automatically renewed every 7 years upon application, as specified. The bill would prohibit the offer or play of any gambling game provided over the Internet that is not an authorized Internet poker game permitted by the state pursuant to these provisions. The bill would provide that it is unlawful for a person to aggregate computers or any other Internet access device in a place of public accommodation within the state, including a club or other association, or a public or other setting, that can accommodate multiple players to ~~simultaneously~~ play an authorized Internet poker game, or to promote, facilitate, or market that activity. The bill would provide that any violation of the Internet Poker Consumer Protection Act of 2016 is punishable as a felony. By creating new crimes, the bill would impose a state-mandated local program.

This bill would require the commission, and any other state agency with a duty pursuant to these provisions, *in consultation with the department and federally recognized California Indian tribes*, to adopt regulations *within 270 days after the effective date of this bill* to implement ~~the provisions within 270 days after the operative date of this bill, in consultation with the department and federally recognized California Indian tribes~~; *these provisions* and to facilitate the operation of authorized poker Web sites and expedite the state's receipt of revenues. The bill would require an eligible entity, as defined, to pay an application processing fee sufficient to cover all reasonable costs associated with the review of the entity's suitability for licensure *as an operator* and the issuance of the license, for deposit into the Internet Poker Fund, as created by the bill, to be continuously appropriated to the department and the commission in the amounts necessary to perform their duties pursuant to this bill. The bill would require an entity seeking to act as a service provider to apply *to the commission* for a service provider license, *and would require a person seeking to act as a marketing affiliate to apply to the commission for a marketing affiliate license or registration before providing the services of a marketing affiliate to a licensed operator in connection with the operation of an authorized poker Web site.* The bill would require *these applicants to pay an application processing fee, for deposit into the Internet Poker Fund, sufficient to cover the reasonable costs associated with the issuance of a license or registration.* The bill would require employees

of a licensed operator or operator; a licensed service provider provider; or licensed or registered marketing affiliate to obtain employee work permits, and owners, officers, and directors of a licensed operator to be subject to a suitability review and obtain employee work permits. The bill would prohibit the commission from granting an applicant a service provider license until January 1, 2021, if the applicant accepted a bet or wager of any form on Internet gambling, as specified, between December 31, 2006, and December 31, 2011, from a person located in the United States and without a license or authority pursuant to comparable federal or state law in the jurisdiction where the bet or wager was made or the facilitation of the wager or financial transaction occurred. The bill, notwithstanding that provision, would authorize an applicant for a service provider license who meets the description above to obtain a service provider license before January 1, 2021, if the applicant pays a one-time fee in the amount of \$20,000,000, to be deposited into the General Fund, and otherwise meets the qualifications and suitability criteria under these provisions. *The bill would prohibit an applicant for a service provider license that is found unsuitable as a covered person, as defined, from being eligible to be found suitable for a service provider license until January 1, 2022, and would prohibit, during this waiting period, the applicant or any other person from using any covered asset, as defined, in this state.* The bill would require an agreement between a licensed operator and a service provider that is a California-owned and operated horse racing association to ensure that at least 50% of the gross gaming revenue that the licensed operator derives from the service provided by the service provider is paid to the service provider. The bill would establish a tribal gaming regulatory authority process for the purpose of processing tribal employee work permits, and authorize a tribe that is a licensed operator to elect to participate in the tribal gaming regulatory authority process.

This bill would require the payment of an annual regulatory fee, for deposit into the Internet Poker Fund, to be continuously appropriated for the actual costs of license oversight, consumer protection, state regulation, and other purposes related to this bill. The bill would require each licensee *licensed operator* to pay a one-time license deposit in the amount of \$12,500,000 for deposit into the General Fund. The bill would require each licensed operator to remit to the Treasurer on an annual a quarterly basis for deposit in the General Fund a specified percentage 10% of its gross gaming revenues pursuant to the applicable rate percent, as specified. *revenues, as specified.* One-half of the

one-time license deposit would be credited against the ~~annual~~ *quarterly* charge on gross gaming revenues. The bill would require the commission to administer and collect this ~~annual~~ *quarterly* charge pursuant to the procedures set forth in the Fee Collection Procedures Law. By expanding the application of the Fee Collection Procedures Law, the violation of which is a crime, this bill would impose a state-mandated local program. The bill would require an applicant for an operator license to provide documentation establishing that the applicant is qualified to pay the one-time license deposit through its own net position or through credit directly to the applicant, as specified. The bill would require up to \$57,000,000 of the moneys collected each fiscal year pursuant to the license deposit and annual fees provisions to be deposited into the California Horse Racing Internet Poker Account, which the bill would establish in the General Fund. The bill would continuously appropriate the funds in the account to the California Horse Racing Board for distribution, as specified. The bill would require up to \$3,000,000 of the moneys collected each fiscal year pursuant to the license deposit and annual fees provisions to be transferred to the State Treasury to the credit of the Fair and Exposition Fund, a continuously appropriated fund, to the benefit of state designated fairs, as specified.

This bill would establish the Unlawful Gambling Enforcement Fund within the General Fund for purposes of ensuring adequate resources for law enforcement charged with enforcing the prohibitions and protections of the provisions described above. The bill would authorize the Attorney General, and other public prosecutors, as specified, to bring a civil action to recover a civil ~~penalty in an unspecified amount~~ *penalty, in an amount to be determined by the court based on specified factors, and, at the discretion of the court, restitution payable to any person injured as a result of the violation*, against a person who engages in those prohibited activities described above, or other specified unlawful gambling activities in connection with the use of an Internet access device. The bill would ~~provide for an unspecified percentage of~~ *require* the revenues from *certain* civil penalties collected to be deposited into the ~~fund~~ *Unlawful Gambling Enforcement Fund* and ~~used~~ *would authorize up to \$10,000,000 of those moneys, upon appropriation by the Legislature, to be annually expended by the Attorney General, for law enforcement activities pursuant to these* ~~provisions, upon appropriation by the Legislature.~~ *provisions.*

This bill would require the commission, in consultation with the department, the Treasurer, and the Franchise Tax Board, to issue a

report to the Legislature describing the state’s efforts to meet the policy goals articulated in this bill within one year of the operative date of this bill and annually thereafter. The bill would also require the Bureau of State Audits, at least 4 years after the issue date of any license by the state, but no later than 5 years after that date, to issue a report to the Legislature detailing the implementation of this bill, as specified.

The bill would provide that specified provisions are not ~~severable~~, and would ~~repeal its provisions on January 1, 2024~~. *severable*.

(2) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 19619.8 is added to the Business and  
2 Professions Code, to read:

3 19619.8. The moneys collected each fiscal year pursuant to  
4 subdivisions (a) and (b) of Section 19990.519 shall be deposited  
5 as follows:

6 (a) Eighty-five percent, in an amount not to exceed fifty-seven  
7 million dollars (\$57,000,000), in the California Horse Racing  
8 Internet Poker Account, which is hereby created in the General  
9 Fund. Notwithstanding Section 13340 of the Government Code,  
10 the funds in the California Horse Racing Internet Poker Account  
11 are continuously appropriated to the board, which shall annually  
12 distribute the funds in the California Horse Racing Internet Poker  
13 Account according to all of the following:

1 (1) One and three-twentieths percent to the defined contribution  
2 retirement plan for California-licensed jockeys established pursuant  
3 to paragraph (1) of subdivision (i) of Section 19604 and  
4 administered as specified in this chapter.

5 (2) One and three-twentieths percent to provide health and  
6 welfare benefits for California-licensed jockeys, former  
7 California-licensed jockeys, and their dependents pursuant to  
8 Section 19612.9.

9 (3) Two and three-tenths percent to supplement the pension  
10 plan for parimutuel employees administered on behalf of the labor  
11 organization that has historically represented the employees who  
12 accept or process any form of wagering at the horse racing meetings  
13 and for other entities licensed to conduct wagering on horse races  
14 in California. Moneys distributed pursuant to this paragraph shall  
15 supplement, and not supplant, moneys distributed to that fund  
16 pursuant to this chapter or any other law.

17 (4) Ninety-five and four-tenths percent to racing associations  
18 or fairs as commissions, to horsemen participating in the racing  
19 meeting in the form of purses, and as incentive awards, in the same  
20 relative proportion as they were generated or earned at each racing  
21 association or fair on races conducted or imported by that racing  
22 association or fair during the prior calendar year. Notwithstanding  
23 any other law, the distributions with respect to each breed of racing  
24 may be altered upon the approval of the board, in accordance with  
25 an agreement signed by the respective associations, fairs,  
26 horsemen’s organizations, and breeders organizations receiving  
27 those distributions.

28 (b) Five percent, in an amount not to exceed three million dollars  
29 (\$3,000,000), to the State Treasury to the credit of the Fair and  
30 Exposition Fund, to be deposited in the separate account in the  
31 fund specified in Section 19606.1 to benefit state designated fairs  
32 as defined in Sections 19418, 19418.1, 19418.2, and 19418.3.  
33 Revenues deposited into the separate account in the fund pursuant  
34 to this section, notwithstanding Section 19606.1 or any other law  
35 to the contrary, shall be allocated only to fairs in Class I to IV+,  
36 inclusive, as classified by the department pursuant to Section 4507  
37 of the Food and Agricultural Code.

38 SEC. 2. Chapter 5.2 (commencing with Section 19990.101) is  
39 added to Division 8 of the Business and Professions Code, to read:

1 CHAPTER 5.2. THE INTERNET POKER CONSUMER PROTECTION  
2 ACT OF 2016

3  
4 Article 1. Title and Legislative Declarations  
5

6 19990.101. This chapter shall be known and may be cited as  
7 the Internet Poker Consumer Protection Act of 2016.

8 19990.102. The Legislature hereby finds and declares all of  
9 the following:

10 (a) In October 2006, the United States Congress passed the  
11 Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA)  
12 (31 U.S.C. Secs. 5361 et seq.), which generally prohibits the use  
13 of banking instruments, including credit cards, checks, and fund  
14 transfers, for interstate Internet gambling.

15 (b) UIGEA essentially prohibits online gambling by United  
16 States citizens, but includes exceptions that permit individual states  
17 to create a regulatory framework to enable intrastate Internet  
18 gambling, if the bets or wagers are made exclusively within a  
19 single state under certain circumstances.

20 (c) This chapter shall only authorize poker games to be played  
21 via the Internet. No other game may be played via the Internet  
22 pursuant to this chapter.

23  
24 Article 2. Definitions  
25

26 19990.201. For the purposes of this chapter, the following  
27 words have the following meanings:

28 (a) “Authorized Internet poker game” means any of several card  
29 games, duly authorized by the department and played on an  
30 authorized poker Web site, that meet the definition of poker as  
31 specified by this section.

32 (b) “Authorized poker Web site” means a *an Internet* Web site  
33 on which authorized Internet poker games are offered for play by  
34 a licensed operator pursuant to this chapter.

35 (c) “Background investigation” means a process of reviewing  
36 and compiling personal and criminal history and financial  
37 information through inquiries of various law enforcement and  
38 public sources to establish a person’s qualifications and suitability  
39 for any necessary license or employee work permit issued pursuant  
40 to this chapter.

1 (d) “Bet” means the placement of a wager in a game.

2 (e) “Card room” means a gambling enterprise, as defined in  
3 subdivision (m) of Section 19805.

4 (f) “Commission” means the California Gambling Control  
5 Commission.

6 (g) “Core functions” and “core functioning” mean any of the  
7 following:

8 (1) The management, administration, or control of bets on  
9 authorized Internet poker games.

10 (2) The management, administration, or control of the games  
11 with which those bets are associated.

12 (3) The development, maintenance, provision, or operation of  
13 a gaming system.

14 (h) “Corporate affiliate” means any person controlled by,  
15 controlling, or under common ownership with, another person or  
16 entity. A person or entity will be deemed to control another person  
17 or entity if it possesses, directly or indirectly, the power to direct  
18 the management or policies of the other entity, whether through  
19 ownership of voting interests or otherwise, or if, regardless of  
20 whether or not it has that power, it holds 10 percent or more of the  
21 ownership or control of the other entity, whether as a stockholder,  
22 partner, member, trust interest, or otherwise.

23 (i) *“Covered asset” means any tangible or intangible asset*  
24 *specifically designed for use in, and used in connection with, the*  
25 *operation of an interactive gaming facility that, after December*  
26 *31, 2006, knowingly and intentionally operated interactive gaming*  
27 *that involved patrons located in the United States, unless and to*  
28 *the extent that activity was licensed at all times by a state or the*  
29 *federal government, including, without limitation, all of the*  
30 *following:*

31 (1) *Any trademark, trade name, service mark, or similar*  
32 *intellectual property under which an interactive gaming facility*  
33 *was identified to the patrons of the interactive gaming facility.*

34 (2) *Any information regarding persons via a database, customer*  
35 *list, or any derivative of a database or customer list.*

36 (3) *Any software or hardware relating to the management,*  
37 *administration, development, testing, or control of an interactive*  
38 *gaming facility.*

39 (j) *“Covered person” means any person who meets any of the*  
40 *following criteria:*

1 (1) *Has at any time owned, in whole or in significant part, an*  
2 *interactive gaming facility or an entity operating an interactive*  
3 *gaming facility that, after December 31, 2006, knowingly and*  
4 *intentionally operated interactive gaming that involved patrons*  
5 *located in the United States, unless and to the extent that activity*  
6 *was licensed at all times by a state or the federal government.*

7 (2) *After December 31, 2006, acted, or proposed to act, on*  
8 *behalf of a person described in paragraph (1) and knowingly and*  
9 *intentionally provided, or proposed to provide, to that person any*  
10 *services as an interactive gaming service provider with knowledge*  
11 *that the interactive gaming facility’s operation of interactive*  
12 *gaming involved patrons located in the United States.*

13 (3) *Purchased or acquired, directly or indirectly, either of the*  
14 *following:*

15 (A) *In whole or in significant part, a person described in*  
16 *paragraph (1) or (2).*

17 (B) *Any covered assets, in whole or in part, from a person*  
18 *described in paragraph (1) or (2).*

19 ~~(i)~~

20 (k) “Department” means the Department of Justice.

21 ~~(j)~~

22 (l) “Determination of suitability” or “suitability review” means  
23 the process, including, but not limited to, conducting a background  
24 investigation, to determine whether an applicant for a license or  
25 employee work permit issued pursuant to this chapter meets the  
26 qualification criteria described in this chapter or whether the  
27 applicant is disqualified on any of the grounds specified in this  
28 chapter.

29 ~~(k)~~

30 (m) (1) (A) “Eligible entity” includes both of the following:

31 (i) A card room that operates pursuant to Chapter 5  
32 (commencing with Section 19800) whose owner or owners have  
33 been authorized, subject to oversight by, and in good standing  
34 with, the applicable state regulatory authorities.

35 (ii) A federally recognized California Indian tribe that operates  
36 a gaming facility pursuant to a facility license issued in accordance  
37 with a tribal gaming ordinance approved by the Chair of the  
38 National Indian Gaming Commission and that is eligible to conduct  
39 real-money poker at that facility.

1 (B) An entity identified in this paragraph shall have operated  
 2 its land-based gaming facility for at least three years immediately  
 3 preceding its application to secure a license to operate an Internet  
 4 poker Web site pursuant to this chapter, and shall ~~be~~ *have been* in  
 5 good standing during that time period with the applicable federal,  
 6 state, and tribal regulatory authorities. *An incorporation or other*  
 7 *change in legal form or ownership during the five years*  
 8 *immediately preceding its application to secure a license to operate*  
 9 *an Internet poker Web site pursuant to this chapter that did not*  
 10 *alter the beneficial ownership of the card room shall not disqualify*  
 11 *from licensure a card room that is otherwise eligible for licensure.*

12 (2) A group consisting of any combination of tribes and card  
 13 rooms is eligible to jointly apply for a license pursuant to this  
 14 chapter, through an entity organized under state or federal law, if  
 15 each entity within the group independently satisfies the requisite  
 16 eligibility requirements identified in this chapter.

17 (3) (A) Subject to any applicable limited waiver of sovereign  
 18 immunity as set forth in subdivision (d) of Section 19990.402, this  
 19 chapter does not restrict a tribal licensee from participating as an  
 20 instrumentality of a tribal government or a political subdivision  
 21 of a tribe, or from forming a separate business entity organized  
 22 under federal, state, or tribal law.

23 (B) *This chapter does not restrict a card room or the card*  
 24 *room’s owners from forming a separate business entity to apply*  
 25 *for or hold any license issued under this chapter. The beneficial*  
 26 *owners of that separate business entity shall be limited to the card*  
 27 *room or the card room’s owners, including ownership transfers*  
 28 *approved under Section 19990.522. A separate business entity*  
 29 *described in this subparagraph is an “eligible entity” under this*  
 30 *chapter and may claim the operating experience of the card room*  
 31 *in order to satisfy the experience requirement described in*  
 32 *subparagraph (B) of paragraph (1).*

33 (4) A tribe that operates a gaming facility that accepts bets from  
 34 players within this state but who are not physically present on  
 35 Indian lands when making those bets is not an eligible entity, unless  
 36 those bets are accepted on authorized Internet poker games played  
 37 on an authorized poker Web site.

38 (†)

39 (n) “Employee” means any natural person employed in, or  
 40 serving as a consultant or independent contractor with respect to,

1 the core functioning of the actual operation of an authorized poker  
2 Web site.

3 ~~(m)~~

4 (o) “Employee work permit” means a permit issued to an  
5 employee of the licensed operator or a service provider, or to a  
6 nonemployee owner, officer, or director of a licensed operator, by  
7 the commission pursuant to this chapter.

8 ~~(n)~~

9 (p) “Gambling” means to deal, operate, carry on, conduct,  
10 maintain, or expose for play any game for money.

11 ~~(o)~~

12 (q) “Game” means any gambling game.

13 ~~(p)~~

14 (r) “Gaming system” means the technology, including hardware  
15 and software, used by a licensee to facilitate the offering of  
16 authorized Internet poker games to registered players.

17 ~~(q)~~

18 (s) “Good standing” means that a person has not had a gambling  
19 license suspended or revoked by a final decision of the commission  
20 or been finally ordered by a court of competent jurisdiction to  
21 cease conducting gaming activities.

22 ~~(r)~~

23 (t) (1) “Gross gaming revenues” means the total amount of  
24 moneys paid by players to the operator to participate in authorized  
25 games before deducting the cost of operating those activities except  
26 for fees to ~~marketing affiliates and~~ payment processing fees.

27 (2) “Gross gaming revenues” do not include player account  
28 deposits or amounts bet, *including tournament entry charges*,  
29 except to the extent any portion of those bets are retained as fees  
30 by the operator, discounts on goods or services, rebates or  
31 promotional discounts or stakes provided to players, or revenues  
32 from nongaming sources, such as from food, beverages, souvenirs,  
33 advertising, clothing, and other nongaming sources.

34 ~~(s)~~

35 (u) “IGRA” means the federal Indian Gaming Regulatory Act  
36 of 1988 (18 U.S.C. Sec. 1166 et seq. and 25 U.S.C. Sec. 2701 et  
37 seq.).

38 ~~(t)~~

39 (v) “Initial operator license” means an operator license that is  
40 issued pursuant to subdivision (h) of Section 19990.402.

1 (w) *“Interactive gaming” means the conduct of gambling games*  
 2 *through the use of communications technology that allows a*  
 3 *person, utilizing money, checks, electronic checks, electronic*  
 4 *transfers of money, credit cards, debit cards, or any other*  
 5 *instrumentality, to transmit information to a computer to assist in*  
 6 *the placing of a bet or wager and corresponding information*  
 7 *related to the display of the game, game outcomes, or other similar*  
 8 *information. As used in this section, “communications technology”*  
 9 *means any method used, and the components employed by, an*  
 10 *establishment to facilitate the transmission of information,*  
 11 *including, but not limited to, transmission and reception by systems*  
 12 *based on wire, cable, radio, microwave, light, optics, or computer*  
 13 *data networks, including, but not limited to, the Internet and*  
 14 *intranets.*

15 (x) *“Interactive gaming facility” means an Internet Web site,*  
 16 *or similar communications facility in which transmissions may*  
 17 *cross any state’s boundaries, through which a person operates*  
 18 *interactive gaming through the use of communications technology.*

19 (y) *“Interactive service provider” means a person who acts on*  
 20 *behalf of an establishment licensed to operate interactive gaming*  
 21 *and does any of the following:*

22 (1) *Manages, administers, or controls wagers that are initiated,*  
 23 *received, or made on an interactive gaming system.*

24 (2) *Manages, administers, or controls the games with which*  
 25 *wagers that are initiated, received, or made on an interactive*  
 26 *gaming system are associated.*

27 (3) *Maintains or operates the software or hardware of an*  
 28 *interactive gaming system.*

29 (4) *Provides products, services, information, or assets to an*  
 30 *establishment licensed in any state to operate interactive gaming*  
 31 *and receives for that a percentage of gaming revenue from the*  
 32 *establishment’s interactive gaming system.*

33 ~~(t)~~

34 (z) *“Internet access device” means a personal computer or*  
 35 *mobile communications device used for connecting to the Internet.*

36 ~~(v)~~

37 (aa) *“Internet Poker Fund” means the fund established pursuant*  
 38 *to Section 19990.801.*

39 ~~(w)~~

1 (ab) “Intrastate” means within the borders and jurisdiction of  
2 California.

3 ~~(x)~~

4 (ac) “Key employee” means any natural person employed by a  
5 licensed operator, service provider, or marketing affiliate, or by a  
6 holding or intermediary company of a licensed operator, service  
7 provider, or marketing affiliate, who is an officer or director of  
8 the licensed operator or service provider, or who, in the judgment  
9 of the commission, has the authority to exercise significant  
10 influence over decisions concerning the operation of the licensed  
11 operator or service provider as that operation relates to the Internet  
12 poker authorized by this chapter.

13 ~~(y)~~

14 (ad) “Land-based gaming facility” means a gambling  
15 establishment, as defined in subdivision (o) of Section 19805, that  
16 is operated pursuant to Chapter 5 (commencing with Section  
17 19800), or a casino operated by a tribe on Indian land in California.

18 ~~(z)~~

19 (ae) “Licensed operator” means an eligible entity licensed  
20 pursuant to this chapter to offer the play of authorized Internet  
21 poker games to registered players on an authorized poker Web  
22 site.

23 ~~(aa)~~

24 (af) “Licensed service provider” means a person licensed  
25 pursuant to this chapter to provide *certain* goods or ~~services~~  
26 *services, as determined by the commission*, to a licensed operator  
27 for use in the operation of an authorized poker Web site.

28 ~~(ab)~~

29 (ag) “Licensee” means a ~~licensed operator or operator~~, licensed  
30 ~~service provider, provider, or licensed marketing affiliate.~~

31 (ah) (1) “Marketing affiliate” means either of the following:

32 (A) A person other than a licensed operator or service provider  
33 who, for a fee or other consideration, provides or refers players  
34 to a licensed operator’s authorized poker Web site.

35 (B) A subaffiliate of a person described in subparagraph (A)  
36 who, for a fee or other consideration, provides or refers players  
37 to a licensed operator’s authorized poker Web site.

38 (2) “Marketing affiliate” does not include a provider of goods  
39 and services who provides similar advertising or marketing  
40 predominantly for purposes other than for gambling activities for

1 *the same rates, fees, costs, pay per impression, or click as charged*  
2 *a nongambling business and is not otherwise directly or indirectly*  
3 *involved in the operation of an authorized poker Web site.*

4 ~~(ae)~~

5 (ai) “Net position” means the residual difference between assets  
6 and liabilities, as defined by generally accepted accounting  
7 principles.

8 ~~(ad)~~

9 (aj) “Online self-exclusion form” means a form on which an  
10 individual notifies a licensed operator that he or she must be  
11 excluded from participation in authorized Internet poker games  
12 for a stated period of time.

13 ~~(ae)~~

14 (ak) “Owner” means any person that is eligible to own a  
15 land-based gaming facility in California and that has a financial  
16 interest in, or control of, a person or entity required to be found  
17 suitable under this chapter, including shareholders, partners, and  
18 members of limited liability companies holding more than 10  
19 percent of the equity or voting control of the person or entity and  
20 any person found by the commission to be exerting management  
21 or control of the person or entity in fact. An owner of a licensed  
22 operator shall include only those persons eligible to own a  
23 land-based gaming facility in California. “Owner” does not include  
24 the members or government officials of a tribe.

25 ~~(af)~~

26 (al) “Per hand charge” means the amount charged by the  
27 licensed operator for registered players to play in a per hand game.

28 ~~(ag)~~

29 (am) “Per hand game” means an authorized Internet poker game  
30 for which the licensed operator charges the player for each hand  
31 played.

32 ~~(ah)~~

33 (an) “Person” means an individual, corporation, business trust,  
34 estate, trust, partnership, limited liability company, association,  
35 joint venture, government, governmental subdivision, agency, or  
36 instrumentality, public corporation, or any other legal or  
37 commercial entity, including any federally recognized California  
38 Indian tribe, or an entity that is wholly owned by the tribe.

39 ~~(ai)~~

1 (ao) “Play-for-fun game” means a version of a lawfully played  
2 ~~gambling game~~ *game, including, but not limited to, a game of*  
3 *poker played over the Internet*, in which there is no requirement  
4 to pay to play or any possibility of winning any prize or other  
5 consideration ~~of or~~ value, including, but not limited to, games  
6 offered only for purposes of training, education, marketing, or  
7 amusement.

8 (aj)

9 (ap) “Play-for-free game” means a version of a lawfully played  
10 ~~gambling game~~ *game, including, but not limited to, a game of*  
11 *poker played over the Internet*, that may include prizes or pots,  
12 without requiring *or allowing* a fee or other consideration for the  
13 right to ~~play~~ *play the game or any aspect of the game*.

14 (ak)

15 (aq) “Play settings” means the options and default parameters  
16 made available by a licensed operator to a registered player in the  
17 play of authorized Internet poker games.

18 (al)

19 (ar) (1) “Poker” means any of several nonbanked card games  
20 commonly referred to as “poker” that meet all of the following  
21 criteria:

22 (A) Played by two or more individuals who bet and play against  
23 each player and not against the house on cards dealt to each player  
24 out of a common deck of cards for each round of play, including  
25 those games played over the Internet using electronically generated  
26 and displayed virtual cards.

27 (B) The object of the game is to hold or draw to a hand  
28 containing a predetermined number of cards that, when all cards  
29 to be dealt in the round have been distributed and the betting is  
30 completed, meets or exceeds the value of the hands held by the  
31 ~~other players.~~ *players, or when the winning player is the last active*  
32 *player in the hand*. The pot of bets made is awarded to the player  
33 or players holding the combination of cards that qualify as the  
34 winning combination under the rules of play. Values may be  
35 assigned to cards or combinations of cards in various ways,  
36 including in accordance with their face value, the combinations  
37 of cards held, such as cards of a similar suit or face value, the order  
38 of the cards that are held, or other values announced before the  
39 round.

1 (C) The house may deal or operate and officiate the game, and  
2 may collect a fee for doing so, but is not a participant in the game  
3 itself. The house has no stake in who wins or loses.

4 (D) Poker may be played in a variety of ways, including dealing  
5 all cards to the players so that they may not be seen by others,  
6 dealing the cards open face to the players, dealing through a  
7 combination of both, or creating a common set of cards that may  
8 be used by all players. The particular rules and winning  
9 combinations are made known to the players before each round is  
10 dealt.

11 (E) All bets are placed in a common pot. At one or more  
12 predetermined points during the game a player may resign,  
13 challenge other players to make additional bets into the pot, or  
14 demand that players reveal their hand so a winner can be  
15 determined.

16 (F) A poker game that has been approved by the department for  
17 play in an authorized live poker room in California pursuant to the  
18 Gambling Control Act (Chapter 5 (commencing with Section  
19 19800)) shall be eligible for qualification by the department as the  
20 basis of an authorized Internet poker gambling game, except that  
21 pai gow and any other game in which persons other than authorized  
22 players to whom the cards in the game have been dealt, and by  
23 whom they are held and played, are permitted to bet on a game  
24 outcome or other game feature or may in any way control or  
25 influence the play of the hand, shall not be authorized, offered, or  
26 played in connection with an authorized Internet poker game.  
27 Subject to this limitation, the rules governing play in an authorized  
28 Internet poker game pursuant to this chapter shall generally be the  
29 same as if the game were lawfully played in a live poker room.

30 (G) An authorized Internet poker game shall not include a  
31 player-dealer position.

32 (H) Video games, slot machines, and other similar devices that  
33 individuals play against the house or device and win based on  
34 valuations or combinations of cards that are similar to those  
35 valuations or combinations used in live, interactive poker games,  
36 commonly known as “video poker” and “video lottery,” are not  
37 “poker” and are not permitted under this chapter.

38 (I) *An authorized Internet poker game shall not include any*  
39 *feature that uses an element of chance to determine the amount*  
40 *or availability of any prize, payment, or award.*

1 (2) Other characteristics defining “poker” pursuant to this  
2 chapter include any of the following:

3 (A) Live players with equal chances of winning competing  
4 against each other over the Internet in real time and not against  
5 the house or any device.

6 (B) Success over time may be influenced by the skill of the  
7 player.

8 (C) The bets of one player may affect the decisions of another  
9 player in the game, and the decisions of one player may affect the  
10 success or failure of another.

11 (3) The term “poker” includes poker tournaments in which  
12 players pay a fee to the operator of the tournament under  
13 tournament rules approved by the applicable gaming regulatory  
14 agency.

15 ~~(am)~~

16 *(as)* “Proprietary information” means all information, including,  
17 but not limited to, computer programs, databases, data, algorithms,  
18 formulae, expertise, improvements, discoveries, concepts,  
19 inventions, developments, methods, designs, analyses, drawings,  
20 techniques, strategies, new products, reports, unpublished financial  
21 statements, budgets, projections, billing practices, pricing data,  
22 contacts, client and supplier lists, business and marketing records,  
23 working papers, files, systems, plans, and all related registrations  
24 and applications, that, whether or not patentable or registerable  
25 under patent, copyright, trademark, or similar statutes, meet either  
26 of the following:

27 (1) The information can be protected as a trade secret under  
28 California law or any other applicable state, federal, or foreign  
29 law.

30 (2) The information derives independent economic value, actual  
31 or potential, from not being generally known to the public or to  
32 other persons that can obtain economic value from its disclosure  
33 or use.

34 ~~(an)~~

35 *(at)* “Proxy player” means a machine, device, or agent, other  
36 than the registered player, that is used to play an authorized Internet  
37 poker game.

38 ~~(ao)~~

1 (au) “Registered player” means a player who has registered  
2 with a licensed operator to play authorized Internet poker games  
3 on the licensed operator’s authorized poker Web site.

4 ~~(ap)~~

5 (av) “Registration information” means the information provided  
6 by a person to a licensed operator in order to become a registered  
7 player.

8 ~~(aq)~~

9 (aw) “Robotic play” means the use of a machine or software to  
10 automate the next player action at any point in a game, including  
11 the use of a proxy player.

12 ~~(ar)~~

13 (ax) (1) “Service provider” means any person, other than an  
14 employee, that does any of the following:

15 (A) On behalf of a licensed operator, manages, administers, or  
16 controls bets on authorized Internet poker games provided over  
17 the Internet by a licensee pursuant to this chapter.

18 (B) On behalf of a licensed operator, manages, administers, or  
19 controls the games with which the bets described in subparagraph  
20 (A) are associated.

21 (C) On behalf of a licensed operator, develops, maintains,  
22 provides, or operates a gaming system.

23 (D) Sells, licenses, or otherwise receives compensation for  
24 selling or licensing, information on individuals in California who  
25 made bets on games over the Internet that were not authorized  
26 pursuant to this chapter.

27 (E) Provides any product, service, financing, or asset to a  
28 licensed operator and is paid a percentage of gaming revenue by  
29 the licensed operator, not including fees to financial institutions  
30 and payment providers for facilitating a deposit by a customer.

31 (F) Provides intellectual property, including trademarks, trade  
32 names, service marks, or similar intellectual property under which  
33 a licensed operator identifies its games to its customers.

34 ~~(G) Receives compensation as part of an affiliate marketing  
35 program from bringing players or potential players to a licensed  
36 operator’s authorized poker Web site.~~

37 (2) “Service provider” does not include a provider of goods or  
38 services that provides similar goods or services to the public for  
39 purposes other than the operation of an authorized poker Web site,

1 including, but not limited to, payment processors and geolocation  
2 service providers.

3 *(ay) “Significant part” means, with respect to ownership,*  
4 *purchase, or acquisition of an entity, interactive gaming facility,*  
5 *or person, holding 5 percent or more of the entity, interactive*  
6 *gaming facility, or person or any amount of ownership that*  
7 *provides control over the entity, interactive gaming facility, or*  
8 *person.*

9 ~~(as)~~

10 *(az) “State” means the State of California.*

11 ~~(at)~~

12 *(bb) “Terms of Use Registered Player’s Agreement” means the*  
13 *agreement offered by a licensed operator and accepted by a*  
14 *registered player delineating, among other things, permissible and*  
15 *impermissible activities on an authorized poker Web site and the*  
16 *consequences of engaging in impermissible activities.*

17 ~~(au)~~

18 *(bc) “Tournament” means a competition approved by the*  
19 *department in which registered players play a series of authorized*  
20 *Internet poker games to decide the winner.*

21 ~~(av)~~

22 *(bd) “Tournament charge” means the amount charged by the*  
23 *licensed operator for registered players to play in a tournament.*

24 ~~(aw)~~

25 *(be) “Tournament winnings” means the amount of any prize*  
26 *awarded to a registered player in a tournament.*

27 ~~(ax)~~

28 *(bf) “Tribal gaming regulatory authority” means the gaming*  
29 *regulatory authority of a federally recognized California Indian*  
30 *tribe that has the authority to regulate gaming on the tribe’s Indian*  
31 *lands pursuant to IGRA.*

32 ~~(ay)~~

33 *(bg) “Tribe” means a federally recognized California Indian*  
34 *tribe, including, but not limited to, the governing body of that tribe*  
35 *or any entity that is wholly owned by the tribe.*

36 ~~(az)~~

37 *(bh) “Unlawful Gambling Enforcement Fund” means the fund*  
38 *established pursuant to Section 19990.802, the revenue of which*  
39 *is dedicated to enforcing the prohibitions of this chapter.*

Article 3. Intrastate Internet Poker in California

19990.301. Under the federal Unlawful Internet Gambling Enforcement Act of 2006, California is permitted to authorize games played via the Internet as long as all players and the online wagering is located within the jurisdiction of the state and the games are not played by minors.

19990.302. Notwithstanding any other law, a person who is 21 years of age or older and located within California is hereby permitted to participate as a registered player in an authorized Internet poker game provided by a licensed operator on an authorized poker Web site.

19990.303. (a) A person shall not do any of the following:

(1) Offer any game of poker on the Internet in this state unless that person holds a valid license issued by the commission to offer the play of authorized Internet poker games on an authorized poker Web site pursuant to this chapter.

(2) Offer to any player located within California any game provided on the Internet that is not authorized by the state pursuant to this chapter.

~~(3) As a player located in this state, play any game provided on the Internet that is not authorized by the state pursuant to this chapter.~~

(b) Subject to an opportunity to cure pursuant to Section 19990.521, a violation of this chapter is a felony, punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

19990.304. This chapter does not limit or restrict activities or conduct permitted pursuant to Chapter 5 (commencing with Section 19800) or IGRA.

19990.305. This chapter does not authorize any game offered in Nevada or New Jersey other than poker.

19990.306. A person shall not do either of the following:

(a) Aggregate computers or any other Internet access device in a place of public accommodation within the state, including a club or other association, or a public or other setting, that can accommodate multiple players to simultaneously play an authorized Internet poker game.

(b) Promote, facilitate, or market the activity described in subdivision (a).

1 19990.307. This chapter does not apply to play-for-fun or  
2 play-for-free games.

3  
4 Article 4. Licensing of ~~Operators and~~ *Operators, Service*  
5 ~~Providers~~ *Providers, and Marketing Affiliates*  
6

7 19990.401. (a) (1) Within 270 days after the effective date of  
8 this chapter, the commission, and any other state agency with a  
9 duty pursuant to this chapter, shall, in consultation with the  
10 department and tribes, adopt regulations pursuant to the  
11 Administrative Procedure Act (Chapter 3.5 (commencing with  
12 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
13 Code) to implement this chapter, and to facilitate the operation of  
14 authorized poker Web sites and expedite the state's receipt of  
15 revenues in compliance with this chapter. The initial adoption,  
16 amendment, or repeal of a regulation authorized by this section is  
17 deemed to address an emergency, for purposes of Sections 11346.1  
18 and 11349.6 of the Government Code, and the commission and  
19 those other state agencies are hereby exempted for that purpose  
20 from the requirements of subdivision (b) of Section 11346.1 of  
21 the Government Code. After the initial adoption, amendment, or  
22 repeal of an emergency regulation pursuant to this section, the  
23 commission and those other state agencies shall not request  
24 approval from the Office of Administrative Law to readopt the  
25 regulation as an emergency regulation pursuant to Section 11346.1  
26 of the Government Code, but shall promulgate permanent  
27 regulations in accordance with all applicable law.

28 (2) The regulations adopted by the commission shall at a  
29 minimum address all of the following:

- 30 (A) Underage gambling and problem gambling.
- 31 (B) Gaming system technical standards and practices.
- 32 (C) Hardware and software standards and compliance.
- 33 (D) ~~License~~ *License, registration*, and work permit issuance  
34 and processes.
- 35 (E) Suitability standards and determinations.
- 36 (F) Temporary, provisional, and emergency *licensing, work*  
37 *permits, registrations, and* approvals.
- 38 (G) Effect of receiverships, bankruptcy, insolvency, inheritance,  
39 and trusts affecting ownership of a licensee.
- 40 (H) Appeals from adverse decisions.

1 (I) *Accusations, disciplinary proceedings, fines, suspensions,*  
 2 *license or registration revocations, and hearings.*

3 (J) *Accounting, minimum internal controls, and reporting*  
 4 *practices.*

5 (K) *Marketing affiliate agreements and reporting, and the*  
 6 *duration of initial and renewal registrations and licenses for*  
 7 *marketing affiliates.*

8 (L) *Rules for poker promotions.*

9 (M) *The approval of transfers of ownership interests, employee*  
 10 *profit sharing plans, stock options, and bonus plans related to the*  
 11 *performance or profitability of the business.*

12 (3) The regulations adopted by the department shall at a  
 13 minimum address all of the following:

14 (A) Approval of an authorized Internet poker game.

15 (B) Authorized Internet poker game rules.

16 (C) Authorized Internet poker gaming activities.

17 (D) Registered player-assessed fees, as necessary.

18 (E) In order to assist the department’s enforcement of Section  
 19 19990.526, a procedure for the department to access any list of  
 20 customers or any database containing customer information that  
 21 was accrued or created by a licensed service provider prior to the  
 22 effective date of the regulations described in this subdivision.

23 (b) (1) Each state agency with a duty pursuant to this chapter  
 24 shall identify a point of contact at that agency and describe the  
 25 responsibility of the contact with respect to the state agency’s duty.

26 (2) Any notice provided by a licensee to a state agency pursuant  
 27 to this chapter shall be addressed to the contact identified by the  
 28 state agency pursuant to paragraph (1).

29 (3) Unless otherwise provided by this chapter, notice by a  
 30 licensee to a state agency shall be deemed effective once it is  
 31 received by the agency and deemed to be complete. An application  
 32 or notice is not deemed complete until all pertinent documents,  
 33 information, and fees are submitted to the department.

34 19990.402. (a) Authorized Internet poker games may be  
 35 offered only by entities licensed pursuant to this chapter. An  
 36 eligible entity seeking to offer authorized Internet poker games  
 37 shall apply to the department for a determination of suitability. If  
 38 the department determines the applicant is suitable to receive a  
 39 license, the applicant shall then apply to the commission for an  
 40 operator license. The applicant shall pay an application processing

1 fee sufficient to cover the reasonable costs associated with the  
2 determination of suitability and the issuance of the license.

3 (b) Employees of the licensed operator shall undergo a suitability  
4 review and obtain work permits pursuant to Article 6 (commencing  
5 with Section 19990.601). Owners, officers, and directors of  
6 licensed operators shall also undergo a suitability review and obtain  
7 employee work permits pursuant to Article 6 (commencing with  
8 Section 19990.601). The commission may refuse to issue a license  
9 to an applicant, or suspend or revoke a license of a licensed  
10 operator, that fails to comply with this requirement.

11 (c) In order to ensure that licensed operators are not mere  
12 facades for unlicensed, unqualified, or undisclosed interests, an  
13 applicant for an operator license pursuant to this chapter shall  
14 provide documentation to the commission establishing that, if the  
15 license is granted, the license applicant will be able, through its  
16 own net position or through credit extended directly to the  
17 applicant, and with full recourse to it, by a federally or state  
18 chartered financial institution not involved with the core functions  
19 of the authorized poker Web site, that is entirely secured by an  
20 equivalent amount of its own net position, to pay the license deposit  
21 required by subdivision (a) of Section 19990.519. In addition, a  
22 licensed operator shall submit regular financial reports to the  
23 department establishing that the operator meets financial viability  
24 requirements, as determined by the commission. The commission  
25 may terminate a license if the operator fails to submit the required  
26 reports or meet the financial viability requirements.

27 (d) An applicant for an operator license pursuant to this chapter  
28 that is a tribe shall include with its license application a limited  
29 waiver of the applicant's sovereign immunity. This limited waiver  
30 shall apply exclusively to the state, and no other party, solely for  
31 the limited purpose of enforcing this chapter and any regulations  
32 adopted pursuant to this chapter, and with regard to any claim,  
33 sanction, or penalty arising under this chapter or any regulations  
34 adopted pursuant to this chapter against the licensed operator by  
35 the state, and for no other purpose.

36 (e) The commission shall issue an operator license to an  
37 applicant determined by the commission to qualify as an eligible  
38 entity within 150 days of receiving an application, if the applicant  
39 has already been subjected to a determination of suitability by the

1 department and has been approved by the department to apply to  
2 the commission for licensure. ~~At~~

3 *(1) Except as provided in paragraph (2), all applicants shall*  
4 *undergo a determination of suitability prior to applying for an*  
5 *eligibility determination by the commission.*

6 *(2) Notwithstanding Section 19990.405, an applicant for an*  
7 *operator license that is a tribe identified as an eligible entity shall*  
8 *be deemed suitable if it submits a completed license application.*

9 (f) The state may issue operator licenses only to eligible entities  
10 identified within this chapter. Any of the eligible entities may  
11 jointly apply for an operator license, either as a consortium or by  
12 forming an entity comprised entirely of eligible entities. Each  
13 eligible entity may have an interest in only a single operator license.

14 (g) An operator license denoting full licensure shall be issued  
15 for a term of seven years. Subject to the power of the commission  
16 to revoke, suspend, condition, or limit any license, as provided in  
17 this chapter, a license shall be automatically renewed every seven  
18 years thereafter upon application. Failure of a licensed operator to  
19 file an application for renewal may be deemed a surrender of the  
20 license.

21 (h) Each initial operator license issued pursuant to this section  
22 shall take effect on the same date. That date shall be one year after  
23 the effective date of ~~the regulations described in Section 19990.401,~~  
24 *this chapter*, unless the commission determines that good cause  
25 exists for those licenses to take effect in unison on a subsequent  
26 date. Each initial operator license shall be a temporary license, and  
27 shall be issued for a term of no longer than ~~two~~ *five* years. The  
28 issuance of an initial operator license does not guarantee full  
29 licensure.

30 (i) A licensed operator may cease its operations after providing  
31 the department with a 90-day advance notice of its intent and a  
32 statement explaining its reasons for doing so, which may include  
33 the fact that continuing to operate the authorized poker Web site  
34 is commercially infeasible. In response to that notice, the state  
35 may file an action in the Superior Court of the County of  
36 Sacramento as it deems necessary to protect any state interests,  
37 including, but not limited to, the interests of registered players.

38 19990.403. (a) A licensee's employees in direct contact with  
39 registered players shall be physically present in the state.

1 (b) All primary servers, facilities, bank accounts, and accounting  
2 records of the licensee related to authorized Internet poker shall  
3 be located in the state, except for redundant servers and except as  
4 may be permitted by the commission for a service provider, if the  
5 service provider ensures access to and jurisdiction over the relevant  
6 servers, facilities, bank accounts, and accounting records.

7 (c) Notwithstanding subdivisions (a) and (b), a licensee may  
8 request, and the department may approve, the licensee's use of  
9 personnel, servers, facilities, bank accounts, and accounting records  
10 not physically present in the state when necessary to protect  
11 registered players and state interests, for the purposes of diagnosing  
12 and addressing technological problems, investigating fraud and  
13 collusion, and developing and supervising software and  
14 configuration changes.

15 (d) In addition to any other confidentiality protections afforded  
16 to license applicants, the state and its agencies shall treat the  
17 proprietary information of a license applicant as confidential to  
18 protect the license applicant and to protect the security of any  
19 prospective authorized poker Web site. This chapter does not  
20 prohibit the exchange of confidential information among state  
21 agencies considering a license application. The confidentiality  
22 provisions of this chapter exempt proprietary information supplied  
23 by a license applicant to a state agency from public disclosure  
24 consistent with subdivision (b) of Section 6253 of the Government  
25 Code.

26 (e) A license applicant shall submit to the department, together  
27 with its application, an application processing fee as specified in  
28 subdivision (a) of Section ~~19990.402~~. *19990.402, subdivision (b)*  
29 *of Section 19990.404, and subdivisions (b) and (d) of Section*  
30 *19990.405. All moneys collected by the state pursuant to this*  
31 *subdivision shall be deposited into the Internet Poker Fund.*

32 *19990.404. (a) An entity seeking to act as a service provider*  
33 *shall apply to the department for a determination of suitability. If*  
34 *the department determines the applicant is suitable to receive a*  
35 *license, the applicant shall then apply to the commission for a*  
36 *service provider license, and obtain a service provider license,*  
37 *before providing goods or services to a licensed operator in*  
38 *connection with the operation of an authorized poker Web site.*  
39 *The commission may impose limitations and conditions upon the*  
40 *issuance of the service provider license or the utilization of the*

1 applicant's assets acquired before the enactment of the act that  
2 added this section, or both, with respect to its operations in the  
3 state.

4 (b) The department shall review the suitability of an applicant  
5 for a service provider license. The applicant for a service provider  
6 license shall pay an application processing fee sufficient to cover  
7 the reasonable costs associated with the determination of suitability  
8 and the issuance of the license.

9 (c) The department may establish a process to conduct a  
10 preliminary determination of suitability based on a partial  
11 investigation. A partial investigation is intended to screen out  
12 applicants that do not meet the suitability requirements of this  
13 chapter. A partial investigation shall include fingerprint-based  
14 state and federal criminal history checks and clearances, and  
15 inquiries into various public databases regarding credit history and  
16 any civil litigation. A partial investigation shall also include a  
17 review of the service provider's financial status, which shall include  
18 the submission of a report prepared by a forensic accounting, audit,  
19 or investigative firm approved by the department, in a format  
20 developed by the department, and at the service provider's expense.  
21 The report shall include the financial information necessary for  
22 the department to make a preliminary determination of suitability.  
23 The department may specify additional requirements regarding  
24 the contents of the report and any other financial information or  
25 documentation required to be submitted. A full investigation shall  
26 be conducted of only those service providers that pass the partial  
27 investigation and that will undergo a full investigation pursuant  
28 to subdivision (d). Those service providers that are awarded a  
29 preliminary determination of suitability based on a partial  
30 investigation are not guaranteed full licensure. Those service  
31 providers that do not pass the partial investigation may appeal the  
32 decision to the commission.

33 (d) Before the commission issues a service provider license to  
34 an applicant, the department shall conduct the full investigation  
35 required by this section of all of the following persons:

- 36 (1) All officers of the license applicant.  
37 (2) The owner or owners of either of the following:  
38 (A) The license applicant.  
39 (B) Any corporate affiliate of the license applicant.

1 (3) Any persons otherwise providing goods to, or performing  
2 services for, the license applicant related to core functions.

3 (4) Any person deemed by the department to have significant  
4 influence over the license applicant or its service providers or their  
5 respective operations.

6 (5) In the case of a tribe or a wholly owned tribal entity that is  
7 a service provider, the investigation shall be limited to the business  
8 officers of the tribal entity that will serve as the service provider.

9 (e) A full investigation shall include a review and evaluation of  
10 the service provider's qualifications and experience to provide the  
11 services anticipated, which shall include the required submission  
12 of a report prepared on each service provider by an outside firm  
13 contracted and supervised by the department, in a format developed  
14 by the department, and at the service provider's expense. The  
15 report shall include information necessary for the department to  
16 make a determination of suitability, as specified in regulations  
17 adopted pursuant to this chapter, consisting of, but not limited to,  
18 personal history, prior activities and associations, credit history,  
19 civil litigation, any indictments, past and present financial affairs  
20 and standing, and business activities, including whether the  
21 applicant or an affiliate of the applicant has a financial interest in  
22 any business or organization that is or was engaged in any form  
23 of gaming or transactions related to gaming prohibited by the law  
24 of the federal or state jurisdiction in which those activities took  
25 place. The department shall consult with officials of the United  
26 States Department of Justice, other states, and international  
27 jurisdiction where the applicant has sought to be or has been  
28 licensed. The department may specify additional requirements  
29 regarding the contents of the report and other information or  
30 documentation required to be submitted.

31 (f) (1) There is a rebuttable presumption that an applicant for  
32 a service provider license is unsuitable if either of the following  
33 ~~occurred~~: *conditions are met*:

34 ~~(A) A member of the board of directors of, the chief executive~~  
35 ~~officer of, or a shareholder holding more than 10 percent of the~~  
36 ~~shares of the applicant, or its corporate affiliate, has held a similar~~  
37 ~~or equivalent position with an organization that knowingly and~~  
38 ~~willfully accepted a bet, or engaged in a financial transaction~~  
39 ~~related to that bet, after December 31, 2006, from a person located~~  
40 ~~in the United States on any form of Internet gambling, including,~~

1 but not limited to, poker, that was not affirmatively authorized by  
2 the law of the United States, or of the state in which the bet or  
3 related financial transaction was initiated, or that was otherwise  
4 legal.

5 (B) A member of the board of directors of, the chief executive  
6 officer of, or a shareholder holding more than 10 percent of the  
7 shares of the applicant, or its corporate affiliate, has held a similar  
8 or equivalent position with an organization that knowingly  
9 facilitated or otherwise provided services with respect to bets, or  
10 engaged in a financial transaction related to those bets, after  
11 December 31, 2006, involving persons located in the United States,  
12 and acted with knowledge of the fact that those bets or financial  
13 transactions were not affirmatively authorized by the law of the  
14 United States, or of the state in which the bet or related financial  
15 transaction was initiated, or that was otherwise legal.

16 (A) *The applicant or any person employed or affiliated with the*  
17 *applicant is a covered person.*

18 (B) *The applicant owns, leases, operates, or in any manner*  
19 *utilizes covered assets, whether purchased or otherwise acquired*  
20 *directly or indirectly.*

21 (2) An applicant may rebut the presumption described in  
22 paragraph (1) by proving to the department, by a preponderance  
23 of the evidence, any of the following:

24 (A) The acceptance of the bet or wager, the engagement in the  
25 transaction, or the facilitation of the wager or financial transaction  
26 was not knowing or intentional.

27 (B) The bet or wager was accepted, or the transaction was  
28 engaged in, notwithstanding reasonable efforts by the applicant,  
29 or its corporate or marketing affiliate, to exclude bets or wagers  
30 from the person.

31 (C) ~~The acceptance of the bet or wager, the engagement in the~~  
32 ~~transaction, or the facilitation of the wager or financial transaction~~  
33 ~~occurred within a reasonable time period in order to cease those~~  
34 ~~activities in the United States.~~

35 (D) ~~The person described in subparagraph (B) of paragraph (1)~~  
36 ~~is no longer affiliated with the applicant.~~

37 (3) This subdivision shall not limit the department's authority  
38 to make a determination regarding suitability pursuant to Section  
39 ~~19990.405. 19990.406.~~

1 ~~(g) (1) Except as provided in paragraph (2), an applicant for a~~  
2 ~~service provider license shall not be granted a license until January~~  
3 ~~1, 2021, if the applicant, or its corporate or marketing affiliate,~~  
4 ~~accepted a bet or wager on any form of Internet gambling, or~~  
5 ~~engaged in a transaction related to those bets or wagers, and both~~  
6 ~~of the following conditions are met:~~

7 ~~(A) The bet or wager was accepted between December 31, 2006,~~  
8 ~~and December 31, 2011, from a person located in the United States.~~

9 ~~(B) The applicant did not have a license or authority pursuant~~  
10 ~~to comparable federal or state law in a jurisdiction where the bet~~  
11 ~~or wager was made or the facilitation of the wager or financial~~  
12 ~~transaction occurred.~~

13 ~~(2) If an applicant for a service provider license meets the~~  
14 ~~description in paragraph (1), the applicant, if he or she otherwise~~  
15 ~~meets the qualifications and suitability criteria under this chapter,~~  
16 ~~shall pay a one-time fee in the amount of twenty million dollars~~  
17 ~~(\$20,000,000), to be deposited into the General Fund, to obtain a~~  
18 ~~service provider license before January 1, 2021.~~

19 *(g) An applicant for a service provider license that is found*  
20 *unsuitable as a covered person shall not be eligible to be found*  
21 *suitable for a license until January 1, 2022.*

22 *(1) During the waiting period described in this subdivision, an*  
23 *applicant or person shall not use any covered asset in this state.*

24 *(2) A covered person shall not be found suitable for licensure*  
25 *under this section unless that covered person expressly submits to*  
26 *the jurisdiction of the United States and of each state in which*  
27 *patrons of interactive gaming operated by that covered person*  
28 *after December 31, 2006, were located and agrees to waive any*  
29 *statutes of limitation, equitable remedies, or laches that otherwise*  
30 *would preclude prosecution for a violation of any federal law or*  
31 *the law of any state in connection with that operation of interactive*  
32 *gaming after that date.*

33 ~~(h) An institutional investor holding less than 5 percent of~~  
34 ~~the equity securities of a service provider's holding or intermediary~~  
35 ~~companies shall be granted a waiver of a determination of~~  
36 ~~suitability or other requirement if all of the following apply:~~

37 ~~(1) The securities are those of a corporation, whether publicly~~  
38 ~~traded or privately held.~~

39 ~~(2) Holdings of those securities were purchased for investment~~  
40 ~~purposes only.~~

1 (3) The institutional investor annually files a certified statement  
2 with the department to the effect that it has no intention of  
3 influencing or affecting the affairs of the issuer, the licensee, or  
4 service provider, as applicable, or its holding or intermediary  
5 companies.

6 (4) Notwithstanding paragraph (3), the institutional investor  
7 may vote on matters submitted to the vote of the outstanding  
8 security holders after the investor has been issued a license.

9 (5) The certification described in paragraph (3) shall do all of  
10 the following:

11 (A) Include a statement that the institutional investor beneficially  
12 owns the equity securities of the corporation for investment  
13 purposes only, and in the ordinary course of business as an  
14 institutional investor, and not for the purposes of causing, directly  
15 or indirectly, the election of members of the board of directors, or  
16 effecting a change in the corporate charter, bylaws, management,  
17 policies, or operations of the corporation of any of its affiliates.

18 (B) Indicate any changes to the structure or operations of the  
19 institutional investor that could affect its classification as an  
20 institutional investor, as that term is listed in paragraph (8).

21 (C) State that the institutional investor and corporation shall  
22 maintain gaming compliance policies and procedures to implement  
23 and ensure compliance with this chapter and regulations adopted  
24 pursuant to this chapter.

25 (6) An institutional investor granted a waiver under this  
26 subdivision that subsequently decides to influence or affect the  
27 affairs of the issuer shall provide not less than 30 days' notice of  
28 that intent and shall file with the department a request for  
29 determination of suitability before taking an action that may  
30 influence or affect the affairs of the issuer. An institutional investor  
31 shall not vote prior to being issued a license. If an institutional  
32 investor changes its investment intent, or the department finds  
33 reasonable cause to believe that the institutional investor may be  
34 found unsuitable, the institutional investor shall take no action  
35 other than divestiture with respect to its security holdings until it  
36 has complied with any requirements established by the department,  
37 which may include the execution of a trust agreement. The  
38 institutional investor and its relevant holding, related, or subsidiary  
39 companies shall immediately notify the department and, if a tribal  
40 license is involved, the tribal gaming regulatory authority, of any

1 information about, or actions of, an institutional investor holding  
2 its equity securities when that information or action may impact  
3 upon the eligibility of the institutional investor for a waiver  
4 pursuant to paragraph (2).

5 (7) If at any time the department finds that an institutional  
6 investor holding a security of a licensee under this chapter has  
7 failed to comply with the terms of this chapter, or if at any time  
8 the department finds that, by reason of the extent or nature of its  
9 holdings, whether of debt or equity securities, an institutional  
10 investor is in a position to exercise such a substantial impact upon  
11 the controlling interests of a licensee that investigation and  
12 determination of suitability of the institutional investor are  
13 necessary to protect the public interest, the department may take  
14 any necessary action otherwise authorized by this chapter to protect  
15 the public interest.

16 (8) For purposes of this subdivision, an “institutional investor”  
17 includes all of the following:

18 (A) A retirement fund administered by a public agency for the  
19 exclusive benefit of federal, state, or local public employees.

20 (B) An investment company registered under the federal  
21 Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

22 (C) A collective investment trust organized by banks under Part  
23 9 of the Rules of the Office of the Comptroller of the Currency  
24 (12 C.F.R. Sec. 9.1 et seq.).

25 (D) A closed-end investment trust.

26 (E) A chartered or licensed life insurance company or property  
27 and casualty insurance company.

28 (F) A federally or state-regulated bank, savings and loan, or  
29 other federally or state-regulated lending institution.

30 (G) An investment adviser registered under the federal  
31 Investment Advisers Act of 1940 (15 U.S.C. Sec. 80b-1 et seq.).

32 (i) An agreement between a licensed operator and a service  
33 provider that is a horse racing association operating pursuant to  
34 Chapter 4 (commencing with Section 19400) shall ensure that at  
35 least 50 percent of the gross gaming revenue that the licensed  
36 operator derives from the service provided by the service provider  
37 is paid to the service provider.

38 *19990.405. (a) A person seeking to act as a marketing affiliate*  
39 *shall apply to the commission for a marketing affiliate license or*  
40 *registration, and obtain a marketing affiliate license or*

1 registration, before providing the services of a marketing affiliate  
2 to a licensed operator in connection with the operation of an  
3 authorized poker Web site.

4 (b) (1) A marketing affiliate that is a card room or a tribe  
5 operating a land-based gambling facility in good standing shall  
6 register with the commission as a marketing affiliate.

7 (2) A background investigation shall not be required for a  
8 marketing affiliate registrant described in this subdivision.

9 (3) A marketing affiliate registrant described in this subdivision  
10 shall pay an application processing fee sufficient to cover the  
11 reasonable costs associated with the issuance of the registration.

12 (4) A marketing affiliate registrant described in this subdivision  
13 shall provide annual reports to the commission regarding its  
14 marketing affiliate activity.

15 (c) Notwithstanding subdivision (b), the commission may, at its  
16 discretion, require any person to apply for a marketing affiliate  
17 license pursuant to subdivision (d), including any person who has  
18 any financial interest in any business or organization that is or  
19 was engaged in any form of gambling or transactions related to  
20 gambling prohibited by the law of the federal or state jurisdiction  
21 in which those activities or transactions originated or occurred.

22 (d) A marketing affiliate that is not eligible to register pursuant  
23 to subdivision (b), or that is required by the commission to apply  
24 for a marketing affiliate license pursuant to subdivision (c), shall  
25 apply to the commission for a marketing affiliate license. The  
26 department shall review the suitability of an applicant for a  
27 marketing affiliate license. An applicant for a marketing affiliate  
28 license shall pay an application processing fee sufficient to cover  
29 the reasonable costs associated with the issuance of the license.  
30 Before issuing a marketing affiliate license to an applicant, the  
31 department shall conduct the investigation required by this section  
32 of all of the following persons:

33 (1) All officers of the license applicant.

34 (2) The owner or owners of either of the following:

35 (A) The license applicant.

36 (B) Any corporate affiliate of the license applicant.

37 (3) Any persons otherwise providing goods to, or performing  
38 services for, the license applicant in exchange for a payment based  
39 on volume or revenues.

1 (4) Any person deemed by the department to have significant  
2 influence over the license applicant.

3 (5) Any other person specified by the commission.

4 (e) An investigation shall include a review and evaluation of  
5 the information necessary for the department to make a  
6 determination of suitability, as specified in regulations adopted  
7 pursuant to this chapter, consisting of, but not limited to, personal  
8 history, prior activities and associations, credit history, civil  
9 litigation, past and present financial affairs and standing, and  
10 business activities, including whether the applicant or an affiliate  
11 of the applicant has a financial interest in any business or  
12 organization that is or was engaged in any form of gambling or  
13 transactions related to gambling prohibited by the law of the  
14 federal or state jurisdiction in which those activities or transactions  
15 originated or occurred. The commission or department may specify  
16 additional information or documentation required to be submitted.

17 (f) This section does not limit the department's authority to  
18 make a determination regarding suitability pursuant to Section  
19 19990.406.

20 (g) The commission and department shall give priority  
21 consideration to marketing affiliate applications from persons  
22 with contractual agreements with licensed operators or licensed  
23 operator applicants.

24 ~~19990.405.~~

25 19990.406. (a) The department shall issue a finding that a  
26 license applicant is suitable to obtain a license only if, based on  
27 all of the information and documents submitted, the department  
28 is satisfied that each of the persons subject to a determination of  
29 suitability pursuant to this article is both of the following:

30 (1) A person of good character, honesty, and integrity, or, if an  
31 entity, in good standing in its jurisdiction of organization and in  
32 all other jurisdictions in which it is qualified, or should be qualified,  
33 to do business.

34 (2) A person whose prior activities, criminal record, if any,  
35 reputation, habits, and associations do not pose a threat to the  
36 public interest of the state, or to the effective regulation and control  
37 of authorized Internet poker games, or create or enhance the  
38 dangers of unsuitable, unfair, or illegal practices, methods, and  
39 activities in the conduct of authorized Internet poker games or in

1 the carrying on of the business and financial arrangements  
2 incidental thereto.

3 (b) The department shall issue a finding that a license applicant  
4 is not suitable to obtain a license if it finds that a person subject  
5 to a determination of suitability pursuant to this article is described  
6 by any of the following:

7 (1) The person failed to clearly establish eligibility and  
8 qualifications in accordance with this chapter.

9 (2) The person failed to timely provide information,  
10 documentation, and assurances required by this chapter or requested  
11 by the department, or, with respect to a licensed applicant, failed  
12 to reveal any fact material to qualification, or supplied information  
13 that is untrue or misleading as to a material fact pertaining to the  
14 suitability criteria.

15 (3) The person has been convicted of a felony, including a  
16 conviction by a federal court or a court in another state or foreign  
17 jurisdiction for a crime that would constitute a felony if committed  
18 in California, except that a conviction of a felony involving the  
19 hunting or fishing rights of a tribal member while on his or her  
20 reservation shall not be included among the class of disqualifying  
21 felonies.

22 (4) The person has been convicted of a misdemeanor in a  
23 jurisdiction involving dishonesty or moral turpitude within the  
24 10-year period immediately preceding the submission of the  
25 application, unless the applicant has been granted relief pursuant  
26 to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code.  
27 However, the granting of relief pursuant to Section 1203.4,  
28 1203.4a, or 1203.45 of the Penal Code shall not constitute a  
29 limitation on the discretion of the department or affect the  
30 applicant's burden.

31 (5) The person has associated with criminal profiteering activity  
32 or organized crime, as defined in Section 186.2 of the Penal Code.

33 (6) The person has contemptuously defied a legislative  
34 investigative body, or other official investigative body of a state  
35 or of the United States or a foreign jurisdiction, when that body is  
36 engaged in the investigation of crimes relating to poker, official  
37 corruption related to poker activities, or criminal profiteering  
38 activity or organized crime, as defined in Section 186.2 of the  
39 Penal Code.

40 (7) The person is less than 21 years of age.

1 (8) (A) The person has been convicted in a court of competent  
2 jurisdiction of a felony consisting of either having accepted a bet  
3 over the Internet in violation of federal or state law, or having  
4 aided or abetted that unlawful activity.

5 (B) A licensee shall not enter into a contract or agreement with  
6 a person or entity described in subparagraph (A).

7 (c) License applications shall be treated as follows:

8 (1) The commission shall reject the license application of an  
9 applicant found to be ineligible for licensure.

10 (2) If denial of the application, or approval of the license with  
11 restrictions or conditions on the license, is recommended, the  
12 department shall prepare and file with the commission written  
13 reasons upon which the recommendation is based. Prior to filing  
14 its recommendation with the commission, the department shall  
15 meet with the applicant, or the applicant's duly authorized  
16 representative, and inform the applicant generally of the basis for  
17 a proposed recommendation that the application be denied,  
18 restricted, or conditioned.

19 (3) This section does not require the department to divulge to  
20 the applicant confidential information received from a law  
21 enforcement agency or information received from a person with  
22 assurances that the information would be maintained confidential,  
23 nor to divulge any information that might reveal the identity of an  
24 informant or jeopardize the safety of a person.

25 (4) Denial of an application shall be without prejudice to a new  
26 and different application filed in accordance with any regulations  
27 adopted by the commission with respect to the submission of  
28 applications.

29 (5) An applicant may withdraw its application for a license at  
30 any time prior to final action on the application by the commission  
31 by filing a written request with the commission to withdraw the  
32 application, absent knowledge of a specific reason to suspect that  
33 the person or entity may be found unsuitable.

34 ~~19990.406.~~

35 *19990.407.* (a) This chapter does not restrict the authority of  
36 a tribe that is a licensed operator or that owns a tribal enterprise  
37 that is a licensed operator to conduct suitability reviews of its  
38 service providers.

39 (b) This chapter also does not prohibit a tribal gaming regulatory  
40 authority from providing the results of its suitability investigations

1 or determinations to the commission or department for its  
2 consideration in issuance of licenses pursuant to this chapter.

3

4 Article 5. Requirements for the Operation of an Authorized  
5 Poker Web Site

6

7 19990.501. (a) A licensed operator shall ensure that registered  
8 players are eligible to play authorized Internet poker games and  
9 implement appropriate data security standards to prevent access  
10 by a person whose age and location have not been verified in  
11 accordance with this chapter.

12 (b) A registered player shall be physically located within the  
13 State of California at the time of gambling.

14 (c) A registered player shall be at least 21 years of age.

15 (d) Each licensed operator shall do all of the following, whether  
16 directly or through the actions of its licensed service providers:

17 (1) Prior to registering a person as a registered player or  
18 permitting a person to play an authorized Internet poker game, the  
19 licensed operator shall verify that the person is 21 years of age or  
20 older.

21 (2) The licensed operator shall attempt to match the name,  
22 address, and date of birth provided by the person to information  
23 contained in records in a database of individuals who have been  
24 verified to be 21 years of age or older by reference to an appropriate  
25 database of government records.

26 ~~(3) The licensed operator shall verify that the name and physical  
27 billing address on the check or credit card offered for payment by  
28 the person seeking to be a registered player matches the name and  
29 address listed in the database.~~

30 ~~(4)~~

31 (3) If the licensed operator is unable to verify that the person is  
32 21 years of age or older pursuant to paragraph (1), the licensed  
33 operator shall require the person to submit age-verification  
34 documents consisting of an attestation signed by the person that  
35 he or she is 21 years of age or older and a copy of a valid form of  
36 government identification. For the purposes of this section, a valid  
37 form of government identification includes a driver's license, state  
38 identification card, passport, official naturalization or immigration  
39 document, such as an alien registration receipt card or an immigrant  
40 visa, or United States military identification. The licensed operator

1 shall verify that the physical billing address on the check or credit  
2 card provided by the person matches the address listed on his or  
3 her government identification.

4 *(4) The licensed operator shall ensure that the name and*  
5 *physical billing address associated with any financial instrument*  
6 *provided by a registered player's to make deposits matches the*  
7 *name and physical billing address, if applicable, that was verified*  
8 *at the time of, or subsequent to, that registered player's*  
9 *registration.*

10 (5) The licensed operator shall not permit registered players to  
11 ~~make payments~~ *deposits* or withdrawals by money order or cash,  
12 except that a licensed operator may permit registered players to  
13 ~~make payments~~ *deposits* or withdrawals by money order or cash  
14 in person at the land-based gaming facility operated by the licensed  
15 operator. The licensed operator shall submit information to each  
16 credit card company through which it makes credit card sales, in  
17 an appropriate form and format so that the words "Internet poker"  
18 or equivalent description is printed on the purchaser's credit card  
19 statement with that credit card company, when a ~~payment~~ *deposit*  
20 to a licensed operator is made by credit card and the transaction  
21 is categorized as required by law.

22 (e) A licensed operator is not in violation of this section if the  
23 operator complies with the requirements of paragraphs (1) and (2)  
24 of subdivision (d), and a person under 21 years of age participates  
25 in an authorized Internet poker game provided by the licensed  
26 operator.

27 (f) The department may assess a civil penalty against a person  
28 who violates this section, whether a licensed operator, owner,  
29 service provider, or player, according to the following schedule:

30 (1) Not less than one thousand dollars (\$1,000), and not more  
31 than two thousand dollars (\$2,000), for the first violation.

32 (2) Not less than two thousand five hundred dollars (\$2,500),  
33 and not more than three thousand five hundred dollars (\$3,500),  
34 for the second violation.

35 (3) Not less than four thousand dollars (\$4,000), and not more  
36 than five thousand dollars (\$5,000), for the third violation.

37 (4) Not less than five thousand five hundred dollars (\$5,500),  
38 and not more than six thousand five hundred dollars (\$6,500), for  
39 the fourth violation.

1 (5) Ten thousand dollars (\$10,000) for a fifth or subsequent  
2 violation.

3 (g) The commission shall, by regulation, provide a process for  
4 a licensee to ~~exclude from play any person who has filled out an~~  
5 ~~online self-exclusion form.~~ *registered player to voluntarily restrict*  
6 *his or her play or restrict his or her access to an authorized poker*  
7 *Web site. The commission may, by regulation, establish a voluntary*  
8 *self-exclusion program to allow a licensed operator to exclude*  
9 *from play on its authorized poker Web site any registered player*  
10 *who has filled out an online self-exclusion form.*

11 (1) The commission shall develop an online self-exclusion form  
12 within six months of the effective date of this chapter.

13 (2) The commission shall deliver the form to each licensed  
14 operator.

15 (3) A licensed operator shall prominently display a link *on its*  
16 *authorized poker Web site* to the department's Responsible  
17 Gambling Internet Web site and the online self-exclusion ~~form on~~  
18 ~~the authorized poker Web site that is form.~~ *The link shall be*  
19 *displayed when either of the following occurs:*

20 (A) A person registers as a registered player.

21 (B) Each time a registered player accesses the authorized poker  
22 Web site prior to playing.

23 (4) A licensed operator shall retain the online self-exclusion  
24 form to identify persons who want to be excluded from play. A  
25 licensed operator shall exclude those persons from play.

26 (5) A licensed operator that has made commercially reasonable  
27 efforts to comply with this subdivision shall not be held liable in  
28 any way if a person who has filled out an online self-exclusion  
29 form plays despite that person's request to be excluded.

30 19990.502. A licensed operator shall offer only authorized  
31 Internet poker games and process bets in accordance with the  
32 specified game and betting rules established by the licensed  
33 operator and approved by the department pursuant to Section  
34 19990.503.

35 19990.503. (a) In order to propose a game for play, a licensed  
36 operator shall provide the department with both of the following  
37 via electronic means or via mail:

38 (1) Game rules and betting rules it proposes to offer to registered  
39 players.

1 (2) Documentation from an independent gaming test laboratory  
2 that is ~~licensed~~ *licensed, approved*, or registered in any United  
3 States jurisdiction to test, approve, and certify the game's software.

4 (b) A licensed operator shall not offer a game for play until the  
5 department has approved the game rules and betting rules.

6 19990.504. (a) A licensed operator shall ensure that games  
7 are fair.

8 (b) A licensed operator shall display a link on its authorized  
9 poker Web site that includes the following information for each  
10 game offered:

11 (1) The name of the game.

12 (2) Any restrictions on the play of the game.

13 (3) The rules of the game.

14 (4) All instructions on how to play.

15 (5) The unit and total bets permitted.

16 (6) Per hand charges assessed to registered players.

17 (7) The registered player's current account balance, which shall  
18 be updated in real time.

19 (8) Any other information that a licensed operator or the  
20 department determines is necessary for the registered player to  
21 have in real time to compete fairly in the game.

22 (c) A licensed operator shall display a link on its authorized  
23 poker Web site that includes the following information for each  
24 tournament offered:

25 (1) Tournament rules.

26 (2) Tournament charge.

27 (3) Games offered during the tournament.

28 (4) Prize structure and number of registered players that will be  
29 paid.

30 (5) Buy-in amount, re-buy amount, and add-on amount.

31 (d) Data used to create game results shall be unpredictable so  
32 that it is infeasible to predict the next occurrence in a game.

33 (e) A licensed operator shall deploy controls and technology to  
34 minimize fraud or cheating through collusion, including external  
35 exchange of information between different players, or any other  
36 means.

37 (1) If a licensed operator becomes aware that fraud or cheating  
38 is taking place or has taken place, it shall take steps to stop those  
39 activities immediately and inform the department of all relevant  
40 facts.

1 (2) The department shall not impose a fine against a licensed  
 2 operator to prevent fraud or cheating if the licensed operator can  
 3 demonstrate that it acted responsibly to prevent those activities as  
 4 soon as the licensed operator became aware of them.

5 (f) In a per hand game, if the gaming server or software does  
 6 not allow a game to be completed, the game shall be void and all  
 7 funds relating to the incomplete game shall be returned to the  
 8 registered player’s account.

9 (g) In a tournament, if the gaming server or software does not  
 10 allow the tournament to be completed, all prize money shall be  
 11 distributed among players in accordance with the procedure  
 12 approved by the department and published by the licensed operator  
 13 prior to the commencement of the tournament.

14 (h) A licensed operator shall display or allow the results from  
 15 any authorized Internet poker game, including the redemption of  
 16 winnings from any game, to be displayed or represented only by  
 17 showing the card faces of the winning ~~hand~~ *hand, the name or*  
 18 *description of the winning hand*, and the dollar amount won.

19 (i) A licensed operator shall not do any of the following:

20 (1) Display or allow the outcome from any authorized Internet  
 21 poker game, including the redemption of winnings from any game,  
 22 to be displayed or represented in a manner that mimics a slot  
 23 machine or any other casino-style games, including, but not limited  
 24 to, blackjack, roulette, or craps.

25 (2) Use casino game graphics, themes, or titles, including, but  
 26 not limited to, depictions of slot machine-style symbols, banked  
 27 or banking card games, craps, roulette, keno, lotto, or bingo.

28 (3) Allow the use of robotic play at any time by itself, a service  
 29 provider, or a player.

30 19990.505. (a) A licensed operator shall register players and  
 31 establish registered player accounts prior to play.

32 (b) A person shall not participate in any game provided by a  
 33 licensed operator unless the person is a registered player and holds  
 34 a registered player account.

35 (c) A registered player account may be established in person,  
 36 or by United States mail, telephone, or by any electronic means.

37 (d) To register and establish a registered player account to play  
 38 poker with real money, a person shall provide all of the following  
 39 registration information:

40 (1) First name and surname.

- 1 (2) Principal residence address.
- 2 (3) Telephone number.
- 3 (4) Social security number.
- 4 (5) Identification or certification to prove that person is at least
- 5 21 years of age.
- 6 (6) Valid email address.
- 7 (e) A licensed operator shall provide registered players with the
- 8 means to update the registration information provided to the
- 9 licensed operator, and shall require that registered players keep
- 10 registration information current.
- 11 (f) This section does not prevent a licensed operator from
- 12 entering into a marketing agreement with a third party, who has
- 13 been determined to be suitable and licensed *or registered, as*
- 14 *applicable*, as a service ~~provider~~, *provider or marketing affiliate*,
- 15 to recruit people to become registered players if the registration
- 16 process described in this section is under the sole control of the
- 17 licensed operator.
- 18 19990.506. (a) A licensed operator shall provide a means for
- 19 registered players to put funds into a registered player account and
- 20 transfer funds out of that account.
- 21 (b) A registered player shall identify the source of funds to be
- 22 used to put money into the registered player account established
- 23 once the registration process is complete.
- 24 (c) At the time of establishing a registered player account, a
- 25 registered player shall designate the bank account into which funds
- 26 from the registered player's authorized poker Web site account
- 27 are to be transferred.
- 28 (d) A registered player shall not establish more than one account
- 29 on the same authorized poker Web site.
- 30 (e) While playing an authorized Internet poker game, the game
- 31 system shall not permit a registered player to increase the amount
- 32 of money that player has available at a game table while a hand is
- 33 in play. Any increase to the funds available to a player during a
- 34 hand shall not take effect until the following hand.
- 35 (f) A licensed operator shall maintain records on the balance of
- 36 each registered player's account.
- 37 (g) A licensed operator shall not permit a registered player to
- 38 place a bet unless the registered player's account has sufficient
- 39 funds to cover the amount of the bet.

1 (h) A licensed operator shall not provide credit to a registered  
2 player's account or act as agent for a credit provider to facilitate  
3 the provision of funds.

4 (i) Interest shall not be paid by a licensed operator with respect  
5 to a registered player's account.

6 (j) A licensed operator shall segregate funds it holds in all  
7 registered player accounts from all of its other assets.

8 (k) A licensed operator shall not commingle funds in the  
9 segregated account containing funds ~~paid~~ *deposited* by registered  
10 players with any other funds held by the licensed operator,  
11 including, but not limited to, operating funds of the licensed  
12 operator. Both the accounts of the licensed operator and its  
13 segregated registered player accounts shall be held in financial  
14 institutions located in the state.

15 (l) Funds held in a registered player's account shall be used only  
16 for the following purposes:

17 (1) To pay per ~~hand~~ *hand, participation*, or tournament charges  
18 owed by a registered player to the licensed operator for play of  
19 authorized Internet poker games.

20 (2) To transfer funds from one registered player's account to  
21 the account of another registered player to reconcile the result of  
22 a loss in the play of an authorized Internet poker game.

23 (3) To transfer funds from a registered player's account to a  
24 temporary account to be held by a licensed operator pending the  
25 outcome of an authorized Internet poker game.

26 (4) To remit tax proceeds due and owing from a registered player  
27 to the Franchise Tax Board.

28 (5) To transfer funds from a registered player's account with  
29 the licensed operator to an account specified by that registered  
30 player upon that registered player's request.

31 19990.507. Prior to completing the registration process, a  
32 licensed operator shall explain in a conspicuous fashion to the  
33 person who is registering the privacy policies of the authorized  
34 poker Web site, and the person shall assent to the following  
35 policies:

36 (a) Personally identifiable information shall not be shared with  
37 any nongovernmental third parties, except as provided in Section  
38 19990.512.

39 (b) All personally identifiable information about registered  
40 players shall be shared with state agencies, including, but not

1 limited to, the department, the commission, the Franchise Tax  
2 Board, and the Department of Child Support Services as necessary  
3 to assist them in fulfilling their obligations.

4 (c) Personally identifiable information may be shared with  
5 governmental agencies only as set forth in subdivision (b) or  
6 subject to court order as provided in Section 19990.512.

7 19990.508. A licensed operator may require that a registered  
8 player, or a person registering as a player, agree to a Terms of Use  
9 Registered Player’s Agreement.

10 19990.509. A licensed operator may suspend or revoke the  
11 account of a registered player for any of the following reasons:

12 (a) A person or registered player provided false information to  
13 the licensed operator, including, but not limited to, in the  
14 registration process.

15 (b) The registered player has not updated registration  
16 information to keep it current.

17 (c) The registered player has violated the authorized poker Web  
18 site’s Terms of Use Registered Player’s Agreement.

19 (d) The person has already been registered.

20 (e) The licensed operator suspects that the registered player has  
21 participated in an illegal or unauthorized activity on the authorized  
22 poker Web site.

23 (f) The licensed operator is directed by a state agency to suspend  
24 or revoke the registered player’s account.

25 19990.510. Upon registration, and each time a registered player  
26 logs into an authorized poker Web site, the licensed operator shall  
27 permit a registered player to adjust his or her play settings to:

28 (a) Set a limit on the deposits that can be made per day.

29 (b) Set a limit on the aggregate losses in a registered player’s  
30 account within a specified period of time.

31 (c) Set a limit on the amount of time that a registered player can  
32 play.

33 19990.511. A licensed operator shall offer customer support  
34 that shall be available to registered players 24 hours per day, 365  
35 days per year.

36 19990.512. (a) A licensed operator shall protect the privacy  
37 of registered players and their personally identifiable information.

38 (b) A licensed operator shall comply with all applicable state  
39 and federal privacy and data protection laws.

1 (c) At the time a registered player registers with a licensed  
2 operator, and at least one time per year thereafter, a licensed  
3 operator shall provide notice in the form of a separate, written  
4 statement, delivered via the United States Postal Service or  
5 electronic mail, to the registered player that clearly and  
6 conspicuously informs the registered player of all of the following:

7 (1) The nature of personally identifiable information collected  
8 or to be collected with respect to the registered player and the  
9 nature of the use of that information.

10 (2) The nature, frequency, and purpose of any disclosure that  
11 may be made of personally identifiable information, including an  
12 identification of the types of persons to whom the disclosure may  
13 be made.

14 (3) The period during which personally identifiable information  
15 will be maintained by the licensed operator.

16 (4) The times and place at which the registered player may have  
17 access to personally identifiable information in accordance with  
18 subdivision (h).

19 (5) The limitations provided by this section with respect to the  
20 collection and disclosure of personally identifiable information by  
21 a licensed operator.

22 (d) A licensed operator shall not collect personally identifiable  
23 information concerning any registered player without the prior  
24 written or electronic consent of the registered player.

25 (e) A licensed operator may collect personally identifiable  
26 information in order to do both of the following:

27 (1) Obtain information necessary to operate the authorized poker  
28 Web site and offer authorized Internet poker games to registered  
29 players pursuant to this chapter.

30 (2) Detect unauthorized play, activities contrary to a licensed  
31 operator's Terms of Use Registered Player's Agreement, or  
32 activities contrary to state or federal law.

33 (f) Except as provided in subdivision (g), a licensed operator  
34 shall not disclose personally identifiable information concerning  
35 any registered player without the prior written or electronic consent  
36 of the registered player and shall take actions necessary to prevent  
37 unauthorized access to that information by a person other than the  
38 registered player or licensed operator.

39 (g) A licensed operator may disclose personally identifiable  
40 information if the disclosure is any of the following:

1 (1) Necessary to render, or conduct a legitimate business activity  
2 related to, the provision of authorized Internet poker games to the  
3 registered player by the licensed operator.

4 (2) Subject to subdivision (j), made pursuant to a court order  
5 authorizing the disclosure, if the registered player is notified of  
6 the order by the person to whom the order is directed.

7 (3) A disclosure of the names and addresses of registered players  
8 to any tournament third party, if both of the following apply:

9 (A) The licensed operator has provided the registered player  
10 the opportunity to prohibit or limit the disclosure.

11 (B) The disclosure does not reveal, directly or indirectly, the  
12 nature of any transaction made by the registered player over the  
13 authorized poker Web site.

14 (4) A disclosure to the commission and the department to fulfill  
15 its obligations under this chapter or to a state agency as authorized  
16 in this chapter.

17 (5) A disclosure to persons found suitable under this chapter if  
18 the registered player is notified and consents to the information  
19 being shared.

20 (h) A licensed operator shall provide a registered player with  
21 access to all personally identifiable information regarding that  
22 registered player that is collected and maintained by the licensed  
23 operator. The licensed operator shall make the information  
24 available to the registered player at reasonable times and at a place  
25 designated by the licensed operator. A licensed operator shall  
26 provide a registered player a reasonable opportunity to correct any  
27 error in the information.

28 (i) A licensed operator shall destroy personally identifiable  
29 information if both of the following apply:

30 (1) The information is no longer reasonably necessary for the  
31 purpose for which it was collected.

32 (2) There are no pending requests or orders for access to the  
33 information under subdivision (j).

34 (j) A governmental or nongovernmental third party may obtain  
35 personally identifiable information concerning a registered player  
36 pursuant to a court order only if, in the court proceeding relevant  
37 to the court order, both of the following apply:

38 (1) The third party offers clear and convincing evidence that  
39 the subject of the information is reasonably suspected of engaging  
40 in criminal activity or otherwise relevant to a pending civil action

1 and that the information sought would be material evidence in the  
 2 case.

3 (2) The registered player about whom the information is  
 4 requested is afforded the opportunity to appear and contest the  
 5 third party’s claim.

6 19990.513. A licensed operator shall establish a book of  
 7 accounts and regularly audit all of its financial records and reports,  
 8 which shall, at a minimum, include all of the following:

9 (a) Monthly auditable and aggregate financial statements of  
 10 gambling transactions.

11 (b) Monthly calculation of all amounts payable to the state.

12 (c) The identity of registered players.

13 (d) The balance on each registered player’s account at the start  
 14 of a session of play, the amount won or lost by each registered  
 15 player during a game, and the balance on the registered player’s  
 16 account.

17 (e) The bets placed on each game, time stamped by the games  
 18 server.

19 (f) The result of each game, time stamped by the games server.

20 (g) The amount, if any, as determined by the registered player,  
 21 withheld from winnings for federal or state income tax purposes.

22 19990.514. (a) A licensed operator shall make all financial  
 23 records established and maintained pursuant to Section 19990.513,  
 24 including, but not limited to, all books, records, documents,  
 25 financial information, and financial reports, available on an  
 26 electronic basis, as required by the commission, the department,  
 27 or other state agencies so that those state agencies can fulfill their  
 28 responsibilities under this chapter. A state agency may request  
 29 specific printed hard copies of records for good cause.

30 (b) The licensed operator’s data shall be retained in a manner  
 31 by which it may be accessed online by a state agency with  
 32 responsibilities pursuant to this chapter. The commission shall  
 33 identify which state agencies require online access.

34 (c) Notwithstanding subdivision (b), data covered by  
 35 subdivisions (d), (e), and (f) of Section 19990.513 shall be  
 36 accessible to the state agencies online for 180 days, and, thereafter,  
 37 archived and retained for two years.

38 19990.515. A licensed operator shall do all of the following:

39 (a) Implement technical systems that materially aid the  
 40 commission in the protection of registered players. Software shall

1 meet, at a minimum, international industry standards as verified  
2 by an independent gaming test laboratory that is licensed or  
3 registered in any United States jurisdiction to test, approve, and  
4 certify the software.

5 (b) Define and document its methodology for developing  
6 software and applications and describe the manner in which  
7 software protects registered players from fraud and other risks in  
8 the play of authorized Internet poker games and in the management  
9 of registered player accounts.

10 (c) Meet minimum game server connectivity requirements to  
11 ensure that registered players are protected from losses due to  
12 connectivity problems.

13 (d) Ensure that all transactions involving registered players'  
14 funds are recoverable by the system in the event of a failure or  
15 malfunction.

16 (e) Ensure that all information required for reviewing a game  
17 interrupted due to loss of connectivity is recoverable by the licensed  
18 operator.

19 (f) Document and implement preventive and detective controls  
20 addressing money laundering and fraud risks.

21 19990.516. (a) A licensed operator may charge registered  
22 players to play in authorized Internet poker games.

23 (b) (1) A licensed operator may charge a per hand charge if the  
24 per hand charge is designated and conspicuously posted on the  
25 licensed operator's authorized poker Web site.

26 (2) A licensed operator may vary the per hand charges to  
27 registered players based on betting limits or other factors.

28 (c) (1) A licensed operator may charge a tournament charge if  
29 the tournament charge is designated and conspicuously posted on  
30 the licensed operator's authorized poker Web site.

31 (2) A licensed operator may vary tournament charges based on  
32 tournament prizes or other factors.

33 (d) A licensed operator shall provide notice to the commission  
34 of the charges to registered players prior to initiating play.

35 19990.517. A licensed operator may do any of the following:

36 (a) Enter into an agreement with any third party to sponsor or  
37 underwrite prizes for a tournament, subject to the approval of the  
38 commission and, if applicable, the tribal gaming regulatory  
39 authority.

1 (b) Enter into an agreement to sell advertisement space on any  
2 Internet Web site it controls.

3 (c) Enter into an agreement with a third-party service provider  
4 for marketing, or any other purpose consistent with this chapter,  
5 including, but not limited to, displaying the name of a marketing  
6 partner on a screen viewed by a registered player.

7 (d) Enable a chat function between registered players if it has  
8 in place effective controls against collusion.

9 (e) Post Internet Web links on the Internet Web sites it controls  
10 to permit registered players to access remote Internet Web sites.

11 (f) Offer authorized Internet poker games on up to two  
12 authorized poker Web sites pursuant to its license.

13 (g) Enter into contractual agreements with one or more licensed  
14 operators for the purpose of ensuring adequate player liquidity.

15 19990.518. There are three categories of application fees,  
16 regulatory fees, and license deposits, as follows:

17 (a) Application Processing Fee. In order to cover the costs of  
18 suitability investigations and other costs of processing an  
19 application for a license or work permit, the applicant shall deposit  
20 the applicable application processing fee as provided in subdivision  
21 (a) of Section 19990.402, subdivision (e) of Section 19990.403,  
22 subdivision (b) of Section 19990.404, *subdivisions (b) and (d) of*  
23 *Section 19990.405*, or Section 19990.605. Any balance of the  
24 application processing fee that remains after completion of the  
25 determination of suitability shall be refunded to the applicant. If  
26 additional moneys are needed to complete the determination of  
27 suitability of the license applicant, the applicant shall pay the funds  
28 necessary to complete the determination of suitability.

29 (b) One-time License Deposit. Prior to offering any games for  
30 play or accepting any bets on its authorized poker Web site, a  
31 licensed operator shall pay the one-time license deposit as provided  
32 in subdivision (a) of Section 19990.519.

33 (c) Ongoing Regulatory Fees. Following issuance of a license  
34 and beginning of operations thereunder, the licensed operator shall  
35 pay the ongoing regulatory fees set forth in subdivision (c) of  
36 Section 19990.519.

37 19990.519. (a) In support of the application for a license  
38 pursuant to this chapter, prior to offering games or accepting bets  
39 on its authorized poker Web site, the licensed operator shall remit  
40 to the Treasurer a one-time license deposit in the amount of twelve

1 million five hundred thousand dollars (\$12,500,000), to be  
2 deposited into the General Fund, subject to Section 19619.8, and  
3 six million two hundred fifty thousand dollars (\$6,250,000) of the  
4 one-time license deposit shall be credited against the duty imposed  
5 on the licensed operator's gross gaming revenues pursuant to  
6 subdivision (b). Upon depletion of the credit amount, the  
7 commission shall notify the licensed operator to commence with  
8 the annual payments to the state in accordance with subdivision  
9 (b).

10 (b) (1) In consideration of the substantial value of each license,  
11 a licensed operator shall remit to the Treasurer on ~~an annual a~~  
12 ~~quarterly~~ basis for deposit in the General Fund, subject to Section  
13 19619.8, ~~a percentage of its gross gaming revenues pursuant to~~  
14 ~~the applicable rate percent described in paragraph (2): an amount~~  
15 ~~equal to 10 percent of its gross gaming revenues.~~

16 (2) ~~The rate percent assessed per year on a licensed operator~~  
17 ~~pursuant to this subdivision shall be based upon the annual~~  
18 ~~cumulative total of gross gaming revenues for all licensed operators~~  
19 ~~during the calendar year as follows:~~

20 (A) ~~If annual gross gaming revenues are less than or equal to~~  
21 ~~one hundred fifty million dollars (\$150,000,000), the rate percent~~  
22 ~~is 8.847 percent.~~

23 (B) ~~If annual gross gaming revenues are more than one hundred~~  
24 ~~fifty million dollars (\$150,000,000) and less than or equal to two~~  
25 ~~hundred fifty million dollars (\$250,000,000), the rate percent is~~  
26 ~~10 percent.~~

27 (C) ~~If annual gross gaming revenues are more than two hundred~~  
28 ~~fifty million dollars (\$250,000,000) and less than or equal to three~~  
29 ~~hundred fifty million dollars (\$350,000,000), the rate percent is~~  
30 ~~12.5 percent.~~

31 (D) ~~If annual gross gaming revenues are more than three hundred~~  
32 ~~fifty million dollars (\$350,000,000), the rate percent is 15 percent.~~

33 (3) (A) ~~By January 31 of each calendar year, the commission~~  
34 ~~shall, based on financial information submitted to it by licensed~~  
35 ~~operators, determine the applicable rate percent for the preceding~~  
36 ~~calendar year consistent with paragraph (2) and notify each licensed~~  
37 ~~operator of that rate percent.~~

38 (B)

39 (2) ~~Each annual quarterly payment shall be due 30 days after~~  
40 ~~the licensed operator receives the notification from the commission~~

1 ~~described in subparagraph (A).~~ *on the 10th day of the month*  
 2 *following the end of each quarter.*

3 ~~(4)~~

4 (3) The commission shall administer and collect the duty  
 5 imposed by this subdivision pursuant to the Fee Collection  
 6 Procedures Law (Part 30 (commencing with Section 55001) of  
 7 *Division 2 of the Revenue and Taxation Code*). For purposes of  
 8 this subdivision, the references to “fee” in the Fee Collection  
 9 Procedures Law shall include the duty imposed by this subdivision,  
 10 and, except when the context provides otherwise, references to  
 11 “feepayer” in that law shall include a licensed operator required  
 12 to pay the duty imposed by this subdivision and references to the  
 13 “board” in that law shall refer instead to the commission.

14 ~~(5)~~

15 (4) A licensed operator shall make all electronic and written  
 16 financial records available to the Treasurer, the commission, and  
 17 the department on an electronic basis.

18 (c) Each licensed operator shall pay a regulatory fee, to be  
 19 deposited in the Internet Poker Fund, in an amount to be determined  
 20 by the commission, for the reasonable costs of license oversight,  
 21 consumer protection, state regulation, problem gambling programs,  
 22 and other purposes related to this chapter, determined on a pro rata  
 23 basis depending on the number of licensed operators in the state.

24 19990.520. (a) The licensed operator shall facilitate the  
 25 collection of personal income taxes from registered players by the  
 26 Franchise Tax Board and shall be responsible for providing current  
 27 and accurate documentation on a timely basis to all state agencies,  
 28 as provided in this chapter.

29 (b) The state and its agencies shall treat the proprietary  
 30 information provided by a licensed operator as confidential to  
 31 protect the licensed operator and to protect the security of the  
 32 authorized poker Web site.

33 (c) The confidentiality provisions of this chapter exempt  
 34 proprietary information supplied by a licensee to a state agency  
 35 from public disclosure consistent with subdivision (b) of Section  
 36 6253 of the Government Code.

37 19990.521. (a) A licensee shall act expeditiously to cure any  
 38 violation of this chapter, or any regulation adopted pursuant to this  
 39 chapter, in the offer or administration of authorized Internet poker

1 games that interferes with its obligations to the state or registered  
2 players under this chapter.

3 (b) If a licensee becomes aware of any violation of this chapter,  
4 it shall notify the department immediately and work with the  
5 department to develop a plan to rectify the violation.

6 (c) If the department becomes aware of any violation of this  
7 chapter, or if it becomes aware of any activities that might lead to  
8 a violation, the department shall provide notice of that violation  
9 to the licensee and a reasonable opportunity for the licensee to  
10 cure the violation. If the violation is not timely cured, the  
11 department shall investigate the violation further and may take  
12 enforcement actions. If the commission becomes aware of any  
13 violation of this chapter, the commission shall notify the  
14 department of the violation immediately so that the department  
15 may take appropriate action pursuant to this chapter.

16 (d) All state agencies with responsibilities under this chapter  
17 shall report any actual or suspected violation of this chapter, or  
18 any regulation adopted pursuant to this chapter, or activities that  
19 may lead to a violation, to the department immediately so that the  
20 department can assess whether it needs to commence an  
21 investigation or enforcement action.

22 (e) A licensee shall be afforded a reasonable time period to cure  
23 any reported violation. During this time period, a licensee shall  
24 not be subject to prosecution for the criminal penalty described in  
25 Section 19990.303, or liable for the civil penalties *or restitution*  
26 described in this ~~article~~ *chapter*.

27 (f) The department shall have subpoena power in an  
28 investigation of any violation of this chapter, or any regulation  
29 adopted pursuant to this chapter.

30 (g) The commission may revoke or suspend any license or work  
31 permit under this chapter upon reaching a finding that the licensee  
32 or employee is in violation of any provision of this chapter, or any  
33 regulation adopted pursuant to this chapter. However, a tribal  
34 licensee shall not have its license suspended or revoked, or be  
35 fined or otherwise penalized, for complying with any applicable  
36 federal law or regulation when operating an authorized poker Web  
37 site on Indian lands. To the extent that any state requirement is  
38 more stringent than any applicable federal requirement, the tribal  
39 licensee shall comply with the more stringent state requirement,  
40 unless the federal requirement preempts state law.

1 (h) A licensee may appeal any final decision of the department  
2 pursuant to this section to the superior court. The superior court  
3 shall hear any appeal de novo.

4 (i) The department shall protect the rights and assets of  
5 registered players on an authorized poker Web site if the licensed  
6 operator’s license pursuant to this chapter is revoked or the licensed  
7 operator becomes bankrupt.

8 19990.522. (a) (1) A license issued pursuant to this chapter  
9 is not transferable.

10 (2) If a licensed operator seeks to change the ownership of its  
11 land-based gaming facility, both of the following apply:

12 (A) The license held by the licensed operator under this chapter  
13 shall be rendered void upon the date of any change of ownership  
14 in the land-based gaming facility.

15 (B) Prior to a change in ownership, the acquiring person shall  
16 apply to become a licensed operator, at which point the commission  
17 shall determine whether the person is legally qualified to be a  
18 licensed operator under this chapter.

19 (b) The department shall investigate to ensure that any person  
20 acquiring an interest in a licensee is suitable, and otherwise  
21 financially, technically, and legally qualified to be a licensee  
22 pursuant to this chapter. If an acquiring person is found to be  
23 unsuitable to be a licensee, or otherwise not financially, technically,  
24 or legally qualified to be a licensee, the licensed operator or the  
25 acquiring person may challenge that determination.

26 19990.523. All facilities, software, including downloadable  
27 programs, and any other property, both tangible and intangible,  
28 used by the licensed operator in offering authorized Internet poker  
29 games for play on an authorized poker Web site shall be the  
30 property of the licensed operator or its licensed service providers,  
31 and shall be subject to the review of the department and the  
32 approval of the commission.

33 19990.524. If any dispute arises between the state and a  
34 licensee, either the commission or a licensee may file an action in  
35 the superior court of any county in which the commission has an  
36 office for an interpretation of the rights and responsibilities of the  
37 state and the licensee pursuant to this chapter.

38 19990.525. (a) (1) The department or commission may  
39 contract with other public or private entities, including, but not  
40 limited to, state, tribal, and international regulatory agencies, for

1 the provision of services related to a responsibility imposed on the  
2 department or commission by this chapter if all of the following  
3 are satisfied:

4 (A) The contract will assist with the provision of efficient,  
5 effective, and robust regulation of intrastate Internet poker.

6 (B) The contract provides access to expertise that has been tested  
7 and proven in the poker industry.

8 (C) The department or commission retains administrative control  
9 and responsibility for ensuring compliance with this chapter.

10 (2) In order to expedite the implementation of intrastate Internet  
11 poker, a contract entered into pursuant to paragraph (1) is not  
12 subject to the Public Contracts Code, or otherwise applicable  
13 contracting provisions of the Government Code.

14 (b) A state agency with a duty pursuant to this chapter may enter  
15 into agreements to share information with other regulatory and  
16 law enforcement agencies to assist in performing the state agency's  
17 duty.

18 19990.526. (a) Until January 1, 2019, a licensed service  
19 provider shall not, for any purpose, use any list of customers or  
20 database containing customer information that was accrued or  
21 created prior to the effective date of the regulations described in  
22 subdivision (a) of Section 19990.401.

23 (b) Pursuant to subdivision (b) of Section 19990.303, a violation  
24 of subdivision (a) is a felony, punishable pursuant to subdivision  
25 (h) of Section 1170 of the Penal Code.

26

## 27 Article 6. Employee Work Permits

28

29 19990.601. (a) Except as provided in Section 19990.602, a  
30 licensee shall submit an application and applicable fees to the  
31 department and apply to the commission for an employee work  
32 permit on behalf of each employee.

33 (b) Prior to initiating operations and thereafter, a licensee shall  
34 ensure that every employee has been issued an employee work  
35 permit by the commission prior to that person having access to the  
36 licensee's facilities. The permit shall be renewed every two years.

37 (c) The commission shall issue an employee work permit only  
38 if, based on all of the information and documents submitted, the  
39 commission is satisfied that the applicant is, at a minimum, all of  
40 the following:

1 (1) A person of good character, honesty, and integrity.

2 (2) A person whose prior activities, criminal record, if any,  
3 reputation, habits, and associations do not pose a threat to the  
4 integrity of a gaming operation or public interest of this state, or  
5 to the effective regulation and control of controlled gambling, as  
6 defined in Section 19805, or create or enhance the dangers of  
7 unsuitable, unfair, or illegal practices, methods, and activities in  
8 the conduct of controlled gambling or in the carrying on of  
9 incidental business and financial arrangements.

10 (3) A person who is in all other respects qualified to hold an  
11 employee work permit as provided in this chapter.

12 (d) The commission shall not issue an employee work permit  
13 unless the applicant meets the qualification standards adopted by  
14 the commission by regulation. A tribal gaming regulatory authority  
15 may impose additional qualifications with respect to activities on  
16 Indian lands.

17 19990.602. (a) A tribe that is a licensed operator, or that owns  
18 a tribal enterprise that is a licensed operator, may elect to  
19 participate in the tribal gaming regulatory authority process  
20 prescribed by this section for the issuance of employee work  
21 permits. If the tribe does not elect to participate in the tribal gaming  
22 regulatory authority process as provided in this section, then the  
23 process specified in this section regarding submission and action  
24 by the tribal gaming regulatory authority on the application for  
25 employee work permit shall not apply, and the other provisions of  
26 this chapter shall instead govern.

27 (b) The joint state and tribal processes required pursuant to this  
28 section are intended to promote and involve joint cooperation  
29 among the tribal gaming regulatory authority, the commission,  
30 and the department.

31 (c) The tribal employee work permit process shall be as follows:

32 (1) All applications for employee work permits first shall be  
33 filed with the tribal gaming regulatory authority, which shall  
34 promptly file a copy of the application with the commission,  
35 together with information regarding the filing date and the payment  
36 of fees and deposits. The application shall be accompanied by the  
37 fees required in Section 19990.605, except those fees shall be  
38 deposited into a tribal account created for the purpose of holding  
39 the deposited funds and using them for the costs of the suitability  
40 review and the issuance of the license.

1 (2) In reviewing an application for a work permit, the tribal  
2 gaming regulatory authority shall determine whether issuance of  
3 the employee work permit would meet the suitability standards  
4 set forth in this chapter. The tribal gaming regulatory authority  
5 shall not issue a permit unless, based on all information and  
6 documents submitted, the tribal gaming regulatory authority  
7 determines that the applicant meets all of the criteria set forth in  
8 this chapter for the issuance of the employee work permit.

9 (3) The tribal gaming regulatory authority shall conduct, or  
10 cause to be conducted, all necessary determinations of suitability  
11 reasonably required to determine that the applicant is qualified for  
12 an employee work permit under the standards set forth in this  
13 chapter for the issuance of the employee work permit.

14 (4) In lieu of completing its own determination of suitability,  
15 and to the extent that doing so does not conflict with or violate  
16 this chapter, the tribal gaming regulatory authority may contract  
17 with the department for the conduct of determinations of suitability,  
18 may rely on a state certification of nonobjection previously issued  
19 under a gaming compact involving another tribe, or may rely on  
20 a state gaming license previously issued to the applicant, to fulfill  
21 some or all of the tribal gaming regulatory authority's  
22 determination of suitability obligation. An applicant for a tribal  
23 employee work permit shall provide releases to make background  
24 information regarding the applicant available to the tribal gaming  
25 regulatory authority, the department, and the commission.

26 (5) Upon completion of the necessary determination of  
27 suitability, the tribal gaming regulatory authority may issue a  
28 finding that the person or entity is eligible for an employee work  
29 permit on a conditional or unconditional basis. This section does  
30 not create a property or other right of an applicant in an opportunity  
31 to be permitted, or in a permit itself, both of which shall be  
32 considered privileges granted to the applicant in the sole discretion  
33 of the tribal gaming regulatory authority.

34 (6) Upon receipt of a completed license application and a  
35 determination by the tribal gaming regulatory authority that the  
36 applicant is eligible and suitable for the employee work permit,  
37 the tribal gaming regulatory authority shall transmit to the  
38 commission a notice of intent to issue a permit to the applicant.  
39 The tribal gaming regulatory authority shall not issue an employee

1 work permit until the process required by paragraph (7) is  
2 complete.

3 (7) After receipt of the tribal gaming regulatory authority's  
4 notice pursuant to paragraph (6), and upon completion of the  
5 necessary ~~determination of suitability~~, *review*, the commission  
6 shall issue a notice to the tribal gaming regulatory authority stating  
7 its finding that the applicant is suitable or is not suitable for the  
8 requested permit. *The commission shall defer to the tribal gaming*  
9 *regulatory authority's determination unless the commission*  
10 *concludes that the determination was clearly erroneous.* The  
11 commission may charge an additional application processing fee  
12 pursuant to Section 19990.605 to cover the reasonable costs of  
13 conducting its verification of suitability.

14 (A) If the commission notices a finding that the applicant is  
15 suitable, the tribal gaming regulatory agency shall issue an  
16 employee work permit to the applicant. The permit shall be  
17 effective pursuant to this chapter as though issued by the  
18 commission.

19 (B) If the commission notices a finding that the applicant is not  
20 suitable, the tribal gaming regulatory authority shall not issue the  
21 requested permit. Prior to denying an application for a  
22 determination of suitability, the commission shall notify the tribal  
23 gaming regulatory authority and afford the tribe an opportunity to  
24 be heard. If the commission denies an application for a  
25 determination of suitability, the commission shall provide the  
26 applicant with written notice of all appeal rights available under  
27 state law.

28 (C) Upon receipt of notice that the commission or department,  
29 collectively or individually, or the tribal gaming regulatory  
30 authority has determined that a person would be unsuitable in a  
31 similar application filed in connection with a nontribal operation,  
32 the tribal gaming regulatory authority shall not issue the requested  
33 permit or, if that notice is received after issuance of the permit,  
34 promptly revoke that permit. However, the tribal gaming regulatory  
35 authority may, in its discretion, reissue a permit to the person  
36 following entry of a final judgment reversing the determination of  
37 the commission and department in a proceeding in state court  
38 conducted pursuant to Section 1085 of the Code of Civil Procedure.

39 (8) A tribal permit application submitted pursuant to this section  
40 may be denied, and any permit issued may be revoked, if the tribal

1 gaming regulatory authority determines that the application is  
2 incomplete or deficient, or if the applicant is determined to be  
3 unsuitable or otherwise unqualified for a permit. Pending  
4 consideration of revocation, the tribal gaming regulatory authority  
5 may suspend a permit. All rights to notice and hearing shall be  
6 governed by the rules of the tribal gaming regulatory authority,  
7 which shall meet minimum requirements to be developed among  
8 the tribes, the commission, and the department, and as to which  
9 the applicant shall be notified in writing, along with notice of an  
10 intent to suspend or revoke the permit.

11 (9) The tribal gaming regulatory authority may summarily  
12 suspend an employee work permit issued pursuant to this section  
13 if the tribal gaming regulatory authority determines that the  
14 continued permitting of the person or entity could constitute a  
15 threat to the public health or safety or may violate this chapter.

16 (d) The commission and tribal gaming regulatory authorities  
17 conducting suitability reviews pursuant to this section shall  
18 cooperate in sharing as much background information as possible  
19 in order to maximize investigative efficiency and thoroughness,  
20 to minimize investigative costs, and to expedite the permitting  
21 process.

22 (e) The commission and the tribes that have elected to conduct  
23 suitability reviews pursuant to this section shall cooperate in  
24 developing standard forms for tribal gaming employee work permit  
25 applicants, on a statewide basis, that reduce or eliminate duplicative  
26 or excessive paperwork, and that take into account the requirements  
27 of this chapter and the expense of compliance with those  
28 requirements.

29 19990.603. An applicant for an employee work permit is  
30 disqualified if the applicant is described by any of the following:

31 (a) The applicant failed to clearly establish eligibility and  
32 qualifications in accordance with this chapter.

33 (b) The applicant failed to timely provide information,  
34 documentation, and assurances required by this chapter or requested  
35 by any state official, or, with respect to a licensed applicant, failed  
36 to reveal any fact material to qualification, or supplied information  
37 that is untrue or misleading as to a material fact pertaining to the  
38 suitability criteria.

39 (c) The applicant has been convicted of a felony, including a  
40 conviction by a federal court or a court in another state or foreign

1 jurisdiction for a crime that would constitute a felony if committed  
2 in California, except that a conviction of a felony involving the  
3 hunting or fishing rights of a tribal member while on his or her  
4 reservation shall not be included among the class of disqualifying  
5 felonies.

6 (d) The applicant has been convicted of a misdemeanor in a  
7 jurisdiction involving dishonesty or moral turpitude within the  
8 10-year period immediately preceding the submission of the  
9 application, unless the applicant has been granted relief pursuant  
10 to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code.  
11 However, the granting of relief pursuant to Section 1203.4,  
12 1203.4a, or 1203.45 of the Penal Code shall not constitute a  
13 limitation on the discretion of the department or affect the  
14 applicant's burden.

15 (e) The applicant has associated with criminal profiteering  
16 activity or organized crime, as defined in Section 186.2 of the  
17 Penal Code.

18 (f) The applicant has contemptuously defied a legislative  
19 investigative body, or other official investigative body of a state  
20 or of the United States or a foreign jurisdiction, when that body is  
21 engaged in the investigation of crimes relating to poker, official  
22 corruption related to poker activities, or criminal profiteering  
23 activity or organized crime, as defined in Section 186.2 of the  
24 Penal Code.

25 (g) The applicant is less than 21 years of age.

26 (h) The applicant was a member of the board of directors or the  
27 ultimate parent company of, the chief executive officer of, or a  
28 shareholder holding more than 10 percent of the shares of, an  
29 entity, or its corporate or marketing affiliate, and was directly  
30 involved in an executive decision making capacity that led the  
31 entity, or its affiliate, to facilitate a wager or financial transaction  
32 relating to Internet gambling in the United States, unless any of  
33 the following applies:

34 (1) The entity, or its affiliate, was licensed or authorized to  
35 engage in the activity pursuant to this chapter or comparable federal  
36 or state law in the jurisdiction where the facilitation of the wager  
37 or financial transaction occurred.

38 (2) The facilitation of the wager or financial transaction was  
39 not knowing or intentional.

1 (3) The facilitation of the wager or financial transaction occurred  
2 within a reasonable time period in order to cease those activities  
3 in the United States.

4 19990.604. (a) If a licensed operator has any owners, officers,  
5 or directors who are not employees, it shall ensure that each of  
6 those persons obtains an employee work permit before having any  
7 role or decisionmaking authority regarding the licensed operator's  
8 gaming operations.

9 (b) If the licensed operator is a tribal enterprise controlled by  
10 an independent board of directors, the officers, directors, and  
11 employees of that tribal enterprise are subject to suitability review  
12 pursuant to this section. This section does not require that an  
13 officer, director, employee, or member of the tribe that owns the  
14 tribal enterprise be subject to suitability review if that individual  
15 is not also an officer, director, employee, or member of the tribal  
16 enterprise or a person who controls the core functions of the tribal  
17 enterprise.

18 19990.605. The commission, the department, and, if applicable,  
19 the tribal gaming regulatory authority, shall establish application  
20 processing fees to be paid by a licensee for the reasonable cost of  
21 determinations of suitability for, and issuance of, employee work  
22 permit applications. The commission shall establish processes for  
23 the revocation or suspension of an employee work permit, and to  
24 withdraw an application for an employee work permit.

25 19990.606. ~~A licensed operator or service provider~~ *licensee*  
26 shall not enter into, without prior approval of the commission, a  
27 contract or agreement with either of the following:

28 (a) A person who is denied a gambling license or employee  
29 work permit pursuant to Chapter 5 (commencing with Section  
30 19800), or whose gambling license or employee work permit is  
31 suspended or revoked.

32 (b) Any business enterprise under the control of a person  
33 described in subdivision (a), after the date of receipt of notice of  
34 the action.

35 19990.607. (a) (1) ~~A licensed operator or service provider~~  
36 *licensee* shall not employ, without prior approval of the  
37 commission, a person in any capacity for which he or she is  
38 required to have an employee work permit, if the person has been  
39 denied a gambling license or an employee work permit pursuant  
40 to Chapter 5 (commencing with Section 19800), or if his or her

1 gambling license or employee work permit has been suspended or  
2 revoked after the date of receipt of notice of the action by the  
3 commission or tribal gaming regulatory authority.

4 (2) ~~A licensed operator or service provider licensee~~ shall not  
5 enter into a contract or agreement with a person whose application  
6 for a gambling license or an employee work permit has been  
7 withdrawn with prejudice, or with a business enterprise under the  
8 control of that person, for the period of time during which the  
9 person is prohibited from filing a new application for a gambling  
10 license or an employee work permit.

11 (b) (1) If an employee who is required to hold an employee  
12 work permit pursuant to this chapter is denied an employee work  
13 permit, or has his or her employee work permit revoked, the  
14 employee shall be terminated immediately in all capacities. Upon  
15 notifying the licensee of the denial or revocation, the employee  
16 shall have no further involvement in the gambling operation.

17 (2) If an employee who is required to hold an employee work  
18 permit pursuant to this chapter has his or her employee work permit  
19 suspended, the employee shall be suspended in all capacities. Upon  
20 notifying the licensee of the suspension, the employee shall not  
21 be permitted to have any involvement in the gambling operation  
22 during the period of suspension.

23 (3) ~~A licensed operator or service provider licensee~~ shall not  
24 designate another employee to replace the employee whose  
25 employment was terminated or suspended, unless the other  
26 employee has an existing work permit.

27 (c) ~~A licensed operator or service provider licensee~~ shall not  
28 pay to a person whose employment has been terminated or  
29 suspended as described in subdivision (b) any remuneration for  
30 any service performed in any capacity in which the person is  
31 required to hold an employee work permit, except for amounts  
32 due for services rendered before the date of receipt of the notice.

33 (d) Except as provided in subdivision (b), a contract or  
34 agreement for the provision of services or property to ~~a licensed~~  
35 ~~operator or service provider licensee~~ or for the conduct of any  
36 activity pertaining to the operation of an authorized poker Web  
37 site, that is to be performed by a person required by this chapter,  
38 or by regulation, to hold an employee work permit, shall be  
39 terminated upon a suspension or revocation of the person's  
40 employee work permit.

1 (e) If a contract or agreement for the provision of services or  
2 property to a ~~licensed operator or service provider~~, *licensee*, or for  
3 the conduct of any activity at an authorized poker Web site, is to  
4 be performed by a person required by this chapter or by regulations  
5 adopted pursuant to this chapter, to hold an employee work permit,  
6 the contract or agreement shall be deemed to include a provision  
7 for its termination without liability on the part of the ~~licensed~~  
8 ~~operator or service provider~~ *licensee* upon a suspension or  
9 revocation of the person's employee work permit. In any action  
10 brought by the commission to terminate a contract or agreement  
11 pursuant to subdivision (d) or this subdivision, it is not a defense  
12 that the contract or agreement does not expressly include the  
13 provision described in this subdivision, and the lack of express  
14 inclusion of the provision in the contract or agreement is not a  
15 basis for enforcement of the contract or agreement by a party to  
16 the contract or agreement.

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Article 7. Protection of Registered Players

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19990.701. A licensed operator shall use its best efforts to protect registered players. Subject to the approval of the department, and consistent with uniform standards established by the department by regulation, each licensed operator shall establish administrative procedures to resolve registered player complaints.

19990.702. (a) If a registered player has a complaint against a licensed operator, the exclusive remedy shall be to register the complaint with the department.

(b) The department shall establish regulations with respect to registered player disputes and complaints.

(c) Under the regulations, the department shall do all of the following:

(1) Investigate registered player complaints to determine if a licensed operator has failed to meet its obligations to a registered player.

(2) Attempt to resolve complaints by registered players if a licensed operator fails to meet an obligation to a registered player.

(3) Initiate enforcement actions to require specific performance of any obligation that the department has determined a licensed operator has failed to fulfill with respect to a registered player.

1 (d) A licensed operator may appeal any action by the department  
 2 pursuant to this article to the superior court, which shall review  
 3 the appeal de novo.

4  
 5 Article 8. Financial Provisions for State Regulation and  
 6 Unlawful Gambling Enforcement  
 7

8 19990.801. The Treasurer shall transfer all amounts received  
 9 pursuant to subdivision (a) of Section 19990.402, subdivision (e)  
 10 of Section 19990.403, subdivision (b) of Section 19990.404,  
 11 *subdivisions (b) and (d) of Section 19990.405*, subdivision (c) of  
 12 Section 19990.519, and Section 19990.605 to the Controller for  
 13 deposit in the Internet Poker Fund, which is created in the State  
 14 Treasury, to be administered by the department. Notwithstanding  
 15 Section 13340 of the Government Code, all moneys in the fund  
 16 are continuously appropriated to the department and the  
 17 commission, without regard to fiscal years, in the amounts  
 18 necessary for the department and the commission to perform their  
 19 duties under this chapter.

20 19990.802. (a) The Unlawful Gambling Enforcement Fund is  
 21 hereby established within the General Fund for purposes of  
 22 ensuring adequate resources for law enforcement charged with  
 23 enforcing the prohibitions and protections of this chapter. The  
 24 Unlawful Gambling Enforcement Fund shall be funded by  
 25 depositing:

26 (1) ~~\_\_\_\_\_ percent of the~~ *The* revenue from the civil penalties  
 27 recovered by law enforcement authorities pursuant to Section  
 28 19990.803 into the fund prior to the distribution required under  
 29 subdivision (c) of Section 19990.803.

30 (2) All amounts or property recovered pursuant to Section  
 31 19990.804.

32 (3) ~~\_\_\_\_\_ percent of the duties paid by licensed operators~~  
 33 ~~pursuant to subdivision (b) of Section 19990.519, after any~~  
 34 ~~distribution required by Section 19619.8.~~

35 (4)  
 36 (3) The revenue from the civil penalties recovered pursuant to  
 37 subdivision (f) of Section 19990.501.

38 (b) Up to ~~\_\_\_\_\_ ten~~ million dollars ~~(\$\_\_\_\_\_)~~ *(\$10,000,000)* in the  
 39 fund may be expended annually by the Attorney General, upon  
 40 appropriation by the Legislature, for the purposes of this chapter.

1 19990.803. (a) (1) Except as provided in subdivision (f) of  
2 Section 19990.501, a person who engages or conspires to engage  
3 in activities prohibited by this chapter, or in connection with the  
4 use of an Internet access device, *engages in* activities prohibited  
5 by Section 321, 322, 323, 324, 326, 330, 330a, 330b, 330c, 330.1,  
6 330.4, or 331 of the Penal Code, is liable for a civil penalty ~~not to~~  
7 ~~exceed~~ \_\_\_\_\_ dollars (\$\_\_\_\_\_) for each violation, *the amount of*  
8 *which shall be determined by the court based on the criteria*  
9 *described in subdivision (b)*, in addition to any other penalty or  
10 remedy that may be imposed by ~~law, which law~~. *The civil penalty*  
11 *shall be assessed and recovered in a civil action brought in the*  
12 *name of the people of the State of California by the Attorney*  
13 *General, a district attorney, a county counsel authorized by*  
14 *agreement with the district attorney in an action involving the*  
15 *violation of a county ordinance, the city attorney of a city having*  
16 *a population in excess of 750,000 persons, the city attorney of a*  
17 *city and county, or, with the consent of the district attorney, the*  
18 *city prosecutor in a city with a full-time city prosecutor, in a court*  
19 *of competent jurisdiction.*

20 (2) *In addition to the imposition of a civil penalty, the court may*  
21 *order any person found liable to make restitution to any person*  
22 *injured as a result of the violation.*

23 (b) In determining the amount of the civil penalty described in  
24 subdivision (a), the court shall consider any relevant circumstance  
25 presented by a party to the case, including, but not limited to, any  
26 of the following:

- 27 (1) The nature and seriousness of the misconduct.
- 28 (2) The number of violations.
- 29 (3) The persistence of the misconduct.
- 30 (4) The length of time over which the misconduct occurred.
- 31 (5) The willfulness of the defendant's misconduct.
- 32 (6) *The amount of illicit gain resulting from the misconduct.*
- 33 ~~(6)~~
- 34 (7) The defendant's assets, liabilities, and net worth.

35 (c) (1) Subject to paragraph (1) of subdivision (a) of Section  
36 19990.802, civil penalties recovered by law enforcement authorities  
37 pursuant to this section shall be allocated as follows:

38 (A) If the action is brought by the Attorney General, one-half  
39 of the penalty collected shall be paid to the treasurer of the county  
40 in which the judgment was entered for deposit into that county's

1 general fund, and one-half to the Treasurer for deposit into the  
2 Unlawful Gambling Enforcement Fund.

3 (B) If the action is brought by a district attorney or county  
4 counsel, the penalty collected shall be paid to the treasurer of the  
5 county in which the judgment was entered for deposit into that  
6 county's general fund.

7 (C) If the action is brought by a city attorney or city prosecutor,  
8 one-half of the penalty collected shall be paid to the treasurer of  
9 the city in which the judgment was entered for deposit into that  
10 city's general fund, and one-half to the treasurer of the county in  
11 which judgment was entered for deposit into that county's general  
12 fund. If the action is brought by the city attorney of a city and  
13 county, the entire amount of the penalty collected shall be paid to  
14 the treasurer of the city and county in which the judgment was  
15 entered.

16 (2) The revenue from all civil penalties allocated to the Unlawful  
17 Gambling Enforcement Fund pursuant to subparagraph (A) of  
18 paragraph (1), upon appropriation by the Legislature, shall be used  
19 by the Attorney General exclusively to support the investigation  
20 and enforcement of violations of California's gambling laws,  
21 including the implementation of judgments obtained from  
22 prosecution and investigation of those violations and violations  
23 of, in connection with the use of an Internet access device, Sections  
24 321, 322, 323, 324, 326, 330, 330a, 330b, 330c, 330.1, 330.4, and  
25 331 of the Penal Code, and other activities that are in furtherance  
26 of this chapter.

27 (3) The revenue from all civil penalties allocated to the treasurer  
28 of the county, city, or city and county in which the judgment was  
29 entered pursuant to subparagraphs (A), (B), and (C) of paragraph  
30 (1) shall be for the exclusive use of the district attorney, the county  
31 counsel, the city attorney, or the city prosecutor, whichever is  
32 applicable, for the enforcement of this chapter and existing laws  
33 prohibiting illegal gambling activity.

34 19990.804. (a) Any money, other representative of value, or  
35 real or personal property used in, or derived from, the play of a  
36 game provided on the Internet that is not authorized by the state  
37 pursuant to this chapter is subject to seizure by the department or  
38 by a peace officer.

39 (b) Upon a finding by a court that the money, other  
40 representative of value, or real or personal property was used in,

1 or derived from, the play of a game provided on the Internet that  
2 is not authorized by the state pursuant to this chapter, that money  
3 or property shall be forfeited to the Unlawful Gambling  
4 Enforcement Fund established in Section 19990.802.

5  
6 Article 9. Preemption of Local Regulation  
7

8 19990.901. A city, county, or city and county shall not regulate,  
9 tax, or enter into a contract with respect to any matter related to  
10 this chapter. This section does not prohibit or limit the investigation  
11 and prosecution of any violation of this chapter.  
12

13 Article 10. Reports to the Legislature  
14

15 19990.1001. Notwithstanding Section 10231.5 of the  
16 Government Code, within one year of the operative date of this  
17 chapter, and annually thereafter, the commission, in consultation  
18 with the department, the Treasurer, and the Franchise Tax Board,  
19 shall issue a report to the Legislature describing the state's efforts  
20 to meet the policy goals articulated in this chapter. The report shall  
21 be submitted in compliance with Section 9795 of the Government  
22 Code.

23 19990.1002. (a) At least four years after the issue date of any  
24 license pursuant to this chapter, but no later than five years after  
25 that date, the Bureau of State Audits shall issue a report to the  
26 Legislature detailing the implementation of this chapter.

27 (b) A report submitted pursuant to subdivision (a) shall be  
28 submitted in compliance with Section 9795 of the Government  
29 Code.  
30

31 Article 11. ~~Partial Severability and Repeal of Chapter~~  
32

33 19990.1101. (a) Except as provided in subdivision (b), the  
34 provisions of this chapter are severable. If any provision of this  
35 chapter, other than those listed in subdivision (b), or its application,  
36 is held invalid, that invalidity shall not affect other provisions or  
37 applications that can be given effect without the invalid provision  
38 or application.

39 (b) (1) The following provisions of this chapter are not  
40 severable:

1 (A) Establishing poker as the only permissible Internet gambling  
 2 game.

3 ~~(B) Prohibiting persons or entities who have been convicted in~~  
 4 ~~a court of competent jurisdiction of a felony consisting of either~~  
 5 ~~having accepted a bet over the Internet in violation of United States~~  
 6 ~~or California law, or having aided or abetted that unlawful activity,~~  
 7 ~~from being licensed under this chapter.~~

8 *(B) Any provision in Article 4 (commencing with Section*  
 9 *19990.401), and any related definition, that governs the licensing*  
 10 *of operators and service providers.*

11 *(C) Any provision in Article 5 (commencing with Section*  
 12 *19990.501), and any related definition, that sets forth the*  
 13 *requirements for the operation of an authorized poker Web site.*

14 *(D) Section 19990.306, and any related definition, that prohibits*  
 15 *the aggregation of computers or devices.*

16 ~~(C)~~

17 *(E) Limiting the entities that are eligible for an operator license.*

18 (2) If any of the provisions identified in paragraph (1), or  
 19 application of those provisions to any person or circumstances, is  
 20 held invalid, the entire chapter shall be invalid.

21 ~~19990.1102. This chapter shall remain in effect only until~~  
 22 ~~January 1, 2024, and as of that date is repealed, unless a later~~  
 23 ~~enacted statute, that is enacted before January 1, 2024, deletes or~~  
 24 ~~extends that date.~~

25 SEC. 3. The Legislature finds and declares that Chapter 5.2  
 26 (commencing with Section 19990.101) of Division 8 of the  
 27 Business and Professions Code, as added by Section 2 of this act,  
 28 imposes a limitation on the public’s right of access to the meetings  
 29 of public bodies or the writings of public officials and agencies  
 30 within the meaning of Section 3 of Article I of the California  
 31 Constitution. Pursuant to that constitutional provision, the  
 32 Legislature makes the following findings to demonstrate the interest  
 33 protected by this limitation and the need for protecting that interest:

34 The limitations on the people’s right of access set forth in this  
 35 act are necessary to protect the privacy and integrity of information  
 36 submitted by registered players as well as the proprietary  
 37 information of the license applicants and licensees.

38 SEC. 4. No reimbursement is required by this act pursuant to  
 39 Section 6 of Article XIII B of the California Constitution because  
 40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or  
2 infraction, eliminates a crime or infraction, or changes the penalty  
3 for a crime or infraction, within the meaning of Section 17556 of  
4 the Government Code, or changes the definition of a crime within  
5 the meaning of Section 6 of Article XIII B of the California  
6 Constitution.

7 SEC. 5. This act is an urgency statute necessary for the  
8 immediate preservation of the public peace, health, or safety within  
9 the meaning of Article IV of the Constitution and shall go into  
10 immediate effect. The facts constituting the necessity are:

11 In order to protect the interests of Californians who play online  
12 gambling games and to ensure that people play fair games, that  
13 the state realizes the revenues, and that suitable persons operate  
14 authorized poker Web sites, it is necessary that this act take effect  
15 immediately.